







Digitized by the Internet Archive  
in 2022 with funding from  
University of Toronto

<https://archive.org/details/31761114670524>

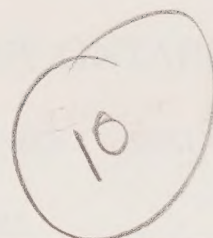












A-1

A-1

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 28 April 1993

# Journal des débats (Hansard)

Mercredi 28 avril 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Organization

Organisation



Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Table of contents**

Table of contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 28 April 1993

The committee met at 1009 in room 228.

## ELECTION OF CHAIR

**Clerk of the Committee (Ms Lynn Mellor):** I'd like to call the meeting to order. It is my responsibility to call upon you to nominate a Chair. Are there any nominations?

**Mr Allan K. McLean (Simcoe East):** I nominate Margaret Marland.

**Clerk of the Committee:** Mr McLean is nominating Margaret Marland. Are there any other nominations?

**Mrs Margaret Marland (Mississauga South):** George was going to nominate me.

**Clerk of the Committee:** There being no further nominations, I declare the nominations closed and Margaret Marland as Chair of the committee.

**Mr James J. Bradley (St Catharines):** See how easy it is, Lynn, when there's no controversy.

**Mr George Mammoliti (Yorkview):** Notice that I started clapping first, Margaret.

**The Chair (Mrs Margaret Marland):** But I wanted to be nominated by you. Margaret Harrington was going to do it but—

**Mr Bradley:** Let's get down to the basics. How much does this pay?

*Interjection.*

**The Chair:** That will be the first.

Thank you very much for the confidence of the committee in electing me Chair. I really appreciate having this opportunity. It's one that I've been waiting for for eight years.

## ELECTION OF VICE-CHAIR

**The Chair:** May we have nominations, please, for the position of Vice-Chair?

**Mr John C. Cleary (Cornwall):** I'll nominate Al McLean.

**Mr Daniel Waters (Muskoka-Georgian Bay):** As his neighbour to the north, I'll even second that.

**The Chair:** Mr McLean has been nominated for Vice-Chair. Are there any other nominations for the position of Vice-Chair?

**Mr Bernard Grandmaître (Ottawa East):** Nominations closed.

**The Chair:** Nominations moved to be closed by Mr Grandmaître. All in favour of nominations being closed? Carried unanimously. Congratulations, Mr McLean. You're Vice-Chair of the committee.

**Mr McLean:** I'm just a worker, not a speaker.

**Mr Grandmaître:** Madam Chair, this will be the last time this committee is ever unanimous.

## APPOINTMENT OF SUBCOMMITTEE

**The Chair:** We would like to appoint a subcommittee, please, for committee business. I'd like to have a member nominated for the subcommittee from each caucus.

**Mr Robert Frankford (Scarborough East):** Mr Waters.

**The Chair:** Mr Waters to be the subcommittee member for the government members. For the official opposition?

**Mr Bradley:** Bernard Grandmaître.

**The Chair:** Mr Grandmaître for the official opposition and Mr McLean for the third party. Thank you.

We need a motion to appoint the subcommittee members of Mr Grandmaître, Mr McLean and Mr Waters.

**Mr Mammoliti:** I so move.

**The Chair:** Thank you. Moved by Mr Mammoliti. We will have a brief meeting of the subcommittee following this meeting this morning. Is that motion carried? Carried unanimously.

I would like to advise the committee that there will not be a meeting next Wednesday, 5 May, due to the fact that two appointments that are to appear before the committee are not available next Wednesday, 5 May, and will be available the following Wednesday, 12 May.

## SUBCOMMITTEE REPORT

**The Chair:** There is a subcommittee report attached to your agenda. It's a subcommittee report dated Wednesday 31 March 1993. Could we have a motion for approval of that report, please?

**Mr Rosario Marchese (Fort York):** I move adoption.

**The Chair:** Mr Marchese, thank you. All in favour? Carried.

## COMMITTEE BUSINESS

**The Chair:** Now we'd like to move to item 5 on the agenda, which is the review of the operations of agencies, boards and commissions. I would like to ask Mr David Pond to make comments on his report and we will need a motion following that report.

**Mr David Pond:** The first one in your package should be the revised draft report on the Liquor Licence Board of Ontario. I'll start with that one, if you like. The only change here appears in shaded ink on page 13. If you recall, at the last meeting on February 3, I



pointed out to the committee that its original recommendation with regard to eliminating sexism in liquor advertising had been overcome by events in the sense that the government had already started to move on the issue, and I was directed to rewrite the passage on that point as it appears on page 13, namely, simply to note that the government has initiated a policy on this issue and that the committee commends the government for moving on the issue. So that's the only change to the LLBO report, the shaded ink on page 13.

**The Chair:** Any comment?

**Mr Marchese:** Madam Chair, I move that we adopt this report and that it never come back here again.

**The Chair:** Any other comment? Can we send this report for translation then? All in favour? Carried unanimously.

**Mr Pond:** The next one I have is the draft report on the Ontario Board of Parole. Once again, the committee has already approved all of the recommendations, the last one being approved at the meeting on February 3, and this report is simply before you for the purposes of formally approving the complete draft, once again for the purposes of sending it off to be translated, I suppose. There are no changes in this draft from the last time.

**The Chair:** Any comment?

**Mr Grandmaître:** I move the report.

**The Chair:** The report has been moved. Is there any comment? All in favour—oh, just a sec.

**Mr Marchese:** Madam Chair, on recommendation 2—I'll just find that report in a second.

**Mr Pond:** Page 14, top of the page.

**Mr Marchese:** Page 14, yes. Here we go. We have a suggested change that I think might be helpful, because we understand that the Ministry of Correctional Services doesn't necessarily have this information. It would have to get it, and that's fine, but I think the wording change that I'm going to recommend will be helpful both in terms of what is there and what isn't there. The recommendation would read:

"Victims should be informed of their rights in conditional release decision-making processes such as temporary absence and parole. The ministries of the Attorney General and Solicitor General and Correctional Services should cooperate to ensure that victims are informed of these rights during the sentencing process so those who express an interest in participating in subsequent release decision-making can be contacted."

**Mr Grandmaître:** Recommendation 2?

**Mr Marchese:** That would be recommendation 2, substitute recommendation 2 with the one I've just read. Can I just give you that wording so you can look at it?

**Mr Bradley:** Where did this come from?

**Mr Marchese:** This comes from Marchese moving it.

**Mr Bradley:** No, but I mean, is this the government? I'm not trying to be flippant. Did the government recommend this change or is this your change?

**Mr Waters:** We've been asked for specific wording to accommodate our concerns. It had been raised in debate, as you probably remember, Jim.

**Mr Bradley:** I well recall that.

**Mr Waters:** We had debated, because Correctional Services are not at this point privy to what happened at sentencing. All they get is a person and a sentence. That day we had tried to come up with some language, so we went back and said no, no, and this was the language that we came up with it.

**Mr Bradley:** So this isn't a government plot to cover anything up?

**Mr Marchese:** No, Mr Bradley. I mean, it's a good question. The point that we've had discussions on this—the motion that we put forward says the same thing. It says that the Attorney General and Solicitor General should be involved with the Minister of Correctional Services in order to get at what is there. So we're saying the same thing. We're just adding the correct process to get to it.

**Mr McLean:** I think what you're trying to say is that you want the victim to know more about what's happening.

**Mr Marchese:** Exactly, which was the intent of 2. It's still the same intent there.

**Mr Mammoliti:** Madam Chair, it's not on the same topic, but I'm wondering whether or not I could reserve a spot later on for a different issue altogether.

**The Chair:** Sure. So is there any further discussion to Mr Marchese's motion for a change, for the revised recommendation 2? All right, could we have approval of this revision, and when you've approved it, is it all right for us to include it in the report and still send it for translation?

**Mr Waters:** Madam Chair, may I recommend that with this revision we would recommend that this report be adopted with this revision and be sent on for translation?

**The Chair:** Okay, so that's the motion on the floor. All in favour of that motion? That's carried. Thank you.

Now, Mr Mammoliti.

**Mr Mammoliti:** Madam Chair, you have to forgive me. I'm new on this committee and I'm also new in my PAship in terms of being the PA to the Solicitor General.

**Mr Bradley:** How much does that pay?

1020

**Mr Mammoliti:** This may not be the appropriate time to talk about this, and I'm going to ask for the committee's indulgence for a second and ask whether or not this is the appropriate time.



Recently, I had the opportunity to tour old city hall. I actually went up to the parole office, and the accommodations there were somewhat, in my opinion, small, being away from all of the action as well. I'd like to know what we can do, perhaps, to make the Attorney General aware of the accommodation aspect of the office and perhaps recommend something. I'm not sure whether or not this is the appropriate time to do it. If it isn't, I can respect that, but I thought I'd bring this up, because it has happened recently, within the last couple of days, actually.

**The Chair:** Mr Mammoliti, I don't think this is the appropriate time. I think there are other opportunities or venues that you could use to express that concern.

**Mr Mammoliti:** Okay, that's fair.

**The Chair:** All right. Is there any further discussion on Mr Waters's motion? All in favour? Thank you.

**Mr Pond:** Excuse me again. The next one I have here is the revised draft report on the Ontario Municipal Board. If you recall, the committee substantively approved this report, I believe in January, and then decided to hear from John Sewell and Dale Martin to hear their comments on the committee's recommendations. Then at the February 3 meeting, the committee reviewed their comments and decided to change the report in light of their comments. The change they requested appears on page 15 in the shaded ink.

If you recall, the original recommendation here on this page had read, "The committee recommends that Mr Martin should adopt alternative dispute resolution techniques in the exercise of his duties." Mr Martin appeared before the committee and told us he was already doing that, so we had to change the language here; hence the shaded ink. That's essentially it. The other comments by Mr Sewell and by Mr Martin, which the committee reviewed, didn't substantively alter any of the other recommendations, in the committee's judgement.

**The Chair:** Any discussion?

**Mr Grandmaître:** This report doesn't reflect the latest announcement from the Minister of Municipal Affairs, where three municipalities in this province have been designated or chosen to implement a pilot project to speed up the process. I'm just wondering if our report should reflect or recommend or approve of these changes. I'm just asking.

**Mr Pond:** I think the issue Mr Grandmaître is referring to is that when Mr Martin appeared, he mentioned that three municipalities had been chosen as sort of the pilot projects for his style of mediation and conciliation. I don't think he actually mentioned which ones they were.

**Mr Grandmaître:** Yes, Toronto, Ottawa-Carleton and—

**Mr Pond:** We can look that up.

**Mr Grandmaître:** Toronto, Ottawa-Carleton and Kitchener.

**Mr Waters:** If I may, Mr Grandmaître, what you're suggesting is that indeed we find out how Mr Martin's new concept is working out. Is this what you're suggesting? Just for clarification.

**Mr Grandmaître:** No, not exactly. I think Mr Martin was very clear as far as his responsibilities were concerned. But since then the Minister of Municipal Affairs has designated three municipalities, three regions, Ottawa-Carleton, I think it's Metro—it's not Toronto; I think it's Metro; I'm not too sure—and Kitchener, where the minister will implement three pilot projects to speed up the process; in other words, pre-hearings and so on and so forth. So I'm just wondering if our report should reflect these new changes.

**Mr Frankford:** I note on page 15, recommendation 2, it doesn't specifically mention those locations, but it does recommend that the ministry should monitor the efforts of the provincial facilitator. It seems to me that this is just moving on, that this has actually been started in those locations.

**Mr Grandmaître:** Could we then, Madam Chair, ask the ministry to provide us with a report within a year from now, 12 months from now, and find out how effective these pilot projects are?

**The Chair:** Do you wish to add that as an additional recommendation? Do you want to place the motion?

**Mr Grandmaître:** Yes. I move that the three pilot projects designated by the Ministry of Municipal Affairs report back to this committee 12 months from now on the success or failure of these three pilot projects.

**The Chair:** Is there any discussion on that motion?

**Mr Frankford:** I think that's quite acceptable.

**The Chair:** Okay. All in favour? Are you voting all in favour of this motion? Thank you. That's carried.

The report can go for translation and be adopted as amended. All in favour?

**Mr Bradley:** Before you're all in favour, Madam Chair, all these recommendations in these reports, particularly this specific report, are going to be influenced by the government's announced program. I look at this and say that if you are recommending all of these things, you're going to see that the withdrawal of funds from the Ministry of Municipal Affairs and the Ministry of the Attorney General will very much affect this. People talk about backlogs, people talk about intervenor funding. I suppose the report can still go forward, but it's certainly going forward in the context of less optimism about the recommendations being adopted because of financial constraints.

It's the old story that you've dealt with, Madam Chair, of long-term care and matters of that kind, returning people who are in institutions back to com-



munities; very good in theory, except there never seems to be enough money to have those other places for those people available to them, the other services available, and I fear that's going to happen with this as well.

**The Chair:** Mr Marchese.

**Mr Marchese:** Madam Chair, Mr Bradley raises an interesting question in terms of implications of the announcements we've made and how they impact on the recommendations we make. We could extend Bernard Grandmaître's motion to have the same review not just on the pilot projects but on all of the recommendations that we made and how they have been dealt with by the ministry in one year's time.

**Mr Bradley:** That's reasonable to me.

**The Chair:** Apparently the ministries, under the standing order, have an option of reporting back within 120 days of a report after it's been tabled. If you want to ensure that they're going to use that option, then I think you would need a motion from the committee making that request when the report is tabled.

**Mr Waters:** I think what the committee is saying, therefore, is that they would like to make that request.

**The Chair:** So you're asking for a report back only on the report on the OMB, or would you like—

**Mr Pond:** It's been the practice of the committee since 1991 to not only request a speedy response to the committee's recommendations from every agency reviewed and the ministry responsible for that agency, but to publish those responses in the committee's next report. So if you recall, in our 18th report, which came out last September, there was a lengthy section explaining all the responses that the committee heard to its 17th report and, as the clerk can tell you, we've already received responses from the ministries with regard to the agencies reviewed in the 18th report, and they can go into the next report when and if it comes out. So this has become the practice in the last two years in this committee.

**Mr Marchese:** So it's almost redundant to request it?

**The Chair:** No. To make sure that it happens, it should be included in the motion.

1030

**Mr Waters:** But I believe what you're saying is 120 days, and I think what we were looking at was a year. I don't like putting words in my friends' mouths over there, but what they're feeling is that the impact of the announcements may not be felt in 120 days, and therefore they would like the year.

**Mr Grandmaître:** Due to the fact that it's a new program, I think it's only fair that we should ask them to report back in a year.

**The Chair:** What you're dealing with when you're talking about a yearly review is on this Ontario Municipal Board report, isn't it?

**Mr Grandmaître:** Not exactly; on the three new pilot projects. I'm not too, too concerned about—

**The Chair:** But I think we should deal with the Ontario Municipal Board and ask for that specifically, for that one-year review, if that's what you wish. If you're happy for the report back on the other reports, which has become the practice of the committee, we can do it that way; whatever the committee wishes.

**Mr Grandmaître:** I wanted to have it included in this report. Is it possible?

**The Chair:** As a recommendation.

**Mr Grandmaître:** As a recommendation.

**The Chair:** That's the motion that has been made, and we were about to vote on that motion, I think, when Mr Bradley wished to speak. So if we can vote on Mr Grandmaître's motion, all in favour? Carried.

Now it's Science North. Mr Pond.

**Mr Pond:** At the February 3 meeting, if you recall, the committee had one of its brainstorming discussions about possible recommendations, and this memo is the result. I think it's probably fair to say that most members, or the committee as a whole, was generally impressed with Science North and they only had a few queries, specifically three queries: (1) the Big Nickel Mine; (2) the purchase of the Bell Grove Arena; and (3) the success, or lack of it, with which Science North was marketing its services.

The committee agreed that the first two items, the Big Nickel Mine and the Bell Grove Arena, could best be addressed by the Provincial Auditor.

Let me go through this very quickly. With regard to the Big Nickel Mine, members will recall that the agency admitted when it appeared before the committee, and certainly in its internal corporate planning documents which it shared with the committee, that the facility itself had identified a problem with the Big Nickel Mine. Very briefly, attendance was falling, the facility wasn't up to date and the staff at Science North had concluded internally that a major influx of capital funding would be necessary to bring this particular site up to speed.

Members will recall that at the same time, Science North had decided that perhaps its next big capital project would be an IMAX facility, and indicated to the committee that if it were put in the position where it had to choose between an IMAX facility and fixing the Big Nickel Mine, it might go for the IMAX facility.

Secondly, the Bell Grove Arena: Some members, not all the members, felt that the purchase of the arena, which is immediately adjacent to Science North, should be reviewed by the auditor to determine whether it had been a sound financial purchase. Members who were on the trip to Science North will recall that the existing office space in the main facility is rather cramped. The immediately adjacent arena had been bought to allow



Science North to expand. Some members felt perhaps Science North should have been a bit more diligent in reviewing possible alternative purchases. Other members felt that it was a good purchase. I'll leave it at that.

As I said earlier, the committee agreed that perhaps the way to handle these two concerns was to have the Provincial Auditor do a general audit and focus on these two particular items. Our information was that the Provincial Auditor had never audited Science North.

The third item was the business of marketing services. It is part of the statutory mandate of Science North to market its services and exhibits, its consulting services. The internal corporate planning document shared with the committee indicated that the centre recognized it had to do more of this in order to generate more revenue internally, as opposed to relying on the government.

However, it was also evident, from the Science North revenue projections shared by the committee, and also from the testimony of the witnesses, that in the immediate past and in the foreseeable future very, very little revenue had in fact been or would be generated by this branch of the operation, so members had a number of questions for the witnesses.

Some members felt the agency should be focusing more of its energies on this aspect of the statutory mandate, specifically with regard to the film, *Shooting Star*. When the witnesses indicated they anticipated marketing that film internationally but had had little success so far in doing so, some of the members pointed out, "Probably the problem there is that when you put it together, you weren't anticipating future marketing efforts."

The film is very site-specific. Members who saw the film will recall that. In order to show it, you have to have this twin-projector, 3-D laser, 70-millimetre technology. I don't really know what that means, but apparently it's very expensive technology and very few facilities around the world have it.

So the final recommendation was that in the future, when Science North is planning these major crowd-pleasing exhibits, which is what the film is designed to be, when they're still at the planning stage the agency should take into consideration their future marketability. That's it.

**Mr Grandmaître:** On the purchase of the Bell Grove Arena, recently in the *Sudbury Star*, as recently as—well, right around Easter, I guess, the transfer of the Bell Grove Arena was already in place.

**Mr Pond:** Yes.

**Mr Grandmaître:** So, Mr Pond, are you saying that even though the transfer has been made, the auditor general should still poke his nose in it?

**Mr Pond:** I think that was the feeling of the committee at the last meeting. The committee was divided

on this issue, if you recall, and I think the compromise, if I may put it that way, was to recommend that the Provincial Auditor review Science North.

As you know, the auditor reviews spending which has already happened, so to speak, so it would not be unusual for the auditor to review an agency after the fact, if you take my meaning. I'm just trying to reflect what the committee told me at that meeting. If you want to change this, of course, it's perfectly up to you.

**Mr Grandmaître:** Okay.

**Mr Marchese:** Madam Chair, I had some concerns on first reading. I was trying to re-read it now to see whether or not my first impressions were correct, but on first reading I thought the report reflected rather negatively on Science North and I felt a bit defensive for them about that.

I don't know whether the other members share that view or not, but in direct reference to what Mr Grandmaître is saying, I feel a bit odd by the way it's written with respect to the Provincial Auditor, where it says, "A more intensive scrutiny of Science North operations is needed," which almost suggests that there's something insidious or something there that needs to be probed in a deeper way.

I'm just a bit concerned because I feel that what Science North has done is very good, given the resources it's had, and that the way it's written it reflects rather negatively.

**The Chair:** Do you want to change the wording, then?

**Mr Marchese:** The point is I'd like to do that, but I don't know how we do that, given that I haven't put specific words to my concerns.

**The Chair:** But it's the committee's report, so the report has to say what the committee wishes it to say—

**Mr Marchese:** I agree.

**The Chair:** —and I think you have to give direction to Mr Pond, so if you would like to change that wording, that's the option of the committee.

**Mr Marchese:** I personally would like to see the wording there slightly changed to reflect a little more positivity to it. Also, in the introduction of this report, I would say that if other members agreed, we should speak a little more positively about it other than simply saying, "We enjoyed the tour and we were generally impressed by the facility," because I really believe they've done an effective job of managing the facility with the resources it's had, "but here are some of the concerns."

**Mr Grandmaître:** I think the fact that Mr Marchese is on record as saying this, that the report, as far as he's concerned, was somewhat negative, if we all agree that the report was somewhat negative, then being on record will reflect that.



**Mr Marchese:** That's true, but I'm only suggesting a couple of word changes. Mr Pond is trying to reflect the discussion, which I think he's done fairly, but I think if we add a few words that speak more positively, that would reflect my views a little more.

1040

**The Chair:** Would you like to give those, or are you going to just leave?

**Mr Pond:** Yes, I can bring this back.

**The Chair:** Can you bring it back?

**Mr Marchese:** Could we bring it back?

**Mr Pond:** One other point—perhaps I'm sort of being mischievous here—the recent announcements by the government with regard to the—I believe it's the mini-budget, it's called.

**Ms Jenny Carter (Peterborough):** Not by us.

**Mr Pond:** My understanding is Science North is taking a reduction and I'm wondering if you want me to do any follow-up with regard to how that might affect its plans, or whether we should just leave that alone and just keep going.

**Mr Grandmaître:** I think it's a good move.

**Mr Marchese:** I would leave that alone.

**Mr Pond:** Okay, just to be fair to the agency, when we ask them to reply to these recommendations, it's quite likely they'll bring that up. That's been my experience in the past with agencies.

**Mr Grandmaître:** I think that's a very good move.

**Mr Waters:** We could do that with everything in this place.

**The Chair:** Are these facetious comments or just comments on the record?

**Mr Grandmaître:** No, by all means, I think it's a very good recommendation. I think we should follow up. These people will be affected by the budget cuts, and as pointed out by Mr Marchese, these people are doing a very good job and they should be encouraged, but if the latest budget cuts will prevent them from doing a better job, what's the future of these people?

**Mr Marchese:** Madam Chair, to be consistent with this previous motion on this, my first part of this motion is to make sure that we reflect what we have seen and how it was managed. If Mr Grandmaître wants to have the second part of that a review of how all the operation is going to be affected by it, we could have a report in one year's time, as we did with the previous report, to see how these recommendations are implemented and how the announcements that have been made on the different programs are affecting the operations of Science North. Is that all right, to come back in one year's time and see?

**Mr Grandmaître:** Madam Chair, I don't think it's going to take Science North a year to find out how badly, or what the effects are of the latest cuts. It's

going to take them 30 seconds to look at their budget.

**Mr Marchese:** To be fair, somebody can tell you in one minute, "This is going to devastate us," versus the operation saying, "This is what we've got and this is what we have to do to solve it, and in time we'll know whether this has been achieved or not," as opposed to trying to get one reaction for the one week which would not do justice to the whole issue, right?

**Mr Waters:** Unless you have them come back in a year, what you're going to get, or at some time in the future, what you're going to get, is an initial reaction, not necessarily a reality. I think what we will want to deal with here is the realities of Science North's situation. Therefore, anything short of that, a year's experience, is not the reality. It is what they are initially presuming is going to happen.

**Mr Grandmaître:** The fact that Science North does have some major projects ongoing, as pointed out by Mr Pond: the Bell Grove Arena, the Big Nickel, they were asking big dollars to improve the Big Nickel Mine. All I'm asking the committee is, how will the latest cuts affect their capital projects of the future? That's all I'm asking.

**Mr Marchese:** We understood you.

**Mr Grandmaître:** Thank you.

**Mr Marchese:** Our answer was that because we understood you, we're willing to accommodate your request by saying let's see how in one period of one year they've managed to deal with this, either positively or not. I mean, we'll know in one year.

**Mr Grandmaître:** Yes, but we were told in Sudbury that these capital projects were initialled to be started in 1993 and 1994. How will these projects be affected in 1993? That's what I'm asking. They were asking \$20,000, I think.

**Mr Pond:** One reason I raised this was that Science North, as you know, is very skilful at accessing government funding.

**Mr Grandmaître:** That's a nice word, "skilful."

**Mr Pond:** Many of their future plans are dependent on the assumption they will continue to be able to access government funding. That's my point.

**Mr Grandmaître:** That's right.

**Mr Pond:** The other thing, as I mentioned earlier, is bet your bottom dollar that when they reply to this report, the first thing they'll say is, "Well, we can't implement any of this because we don't have any money."

**Mr Marchese:** That's exactly why I say—I mean, that's what Ben now wants, and I'm saying—

**Mr Pond:** I don't mean that critically.

**Mr Marchese:** —that's not what we need. But we know that's what they're going to say. What we want them to say is: "Look, you have fewer dollars. How are



you going to manage your affairs to manage with that?" And they'll tell us in the space of time, right?

**Mr Grandmaître:** You're right, but it doesn't take a year.

**Mr Marchese:** What we're saying is, "Come back after the year and tell us how you've done it."

**The Chair:** Well, I hear two opinions here. Obviously Mr Grandmaître is asking to hear from Science North earlier than a year, and you're not finding that that's a useful suggestion. So you're happy to wait for a year, are you?

**Mr Frankford:** They're going to respond anyway.

**Mr Marchese:** Yes, they will respond. Exactly.

**The Chair:** Okay.

**Mr Marchese:** I'm not going to support his suggestion that says we want an immediate response on how they're going to deal with it, because that won't be helpful.

**The Chair:** Under the standing orders, Science North or any of the agencies has the opportunity to respond within 120 days. So if Science North is really upset and worried, then within 120 days it could come back and tell the committee or communicate with the committee what its situation is.

**Mr Grandmaître:** Well, then, Madam Chair, is it fair to be on record as inviting Science North to appear before this committee in six months?

**The Chair:** Well, 120 days is less than six months, isn't it?

**Mr Grandmaître:** I'm generous this morning. I'll go—we'll give six months.

**The Chair:** It would have to be a direction given by the entire committee, but you're free to make that motion if that's what you would like.

**Mr Grandmaître:** Yes, I am. Go ahead.

**The Chair:** So you're making the motion to invite Science North—

**Mr Grandmaître:** To appear before this committee within the next six months.

**The Chair:** Is that six months from the tabling of the report in the House when the report is finalized?

**Mr Grandmaître:** As of today.

**The Chair:** Okay, that's the motion. Mr Waters.

**Mr Waters:** I guess where I have concern is that I would like to get this particular thing closed, and if indeed Mr Grandmaître or any other member of the committee or subcommittee wishes to in the future recommend that we bring any agency, board or commission before this committee for further hearings, fine. But I at this time would like to suggest to the legislative researcher that we do some word changes as indicated by Mr Marchese, and then let's close this set of hearings on Science North, and indeed, if the member

opposite wishes to have a further hearing on the impacts of the announcements, next fall, I would suggest he put that forward and that we deal with that at that time.

**Mr Frankford:** Madam Chair, having been on this committee for some time, I think we often think of or get suggestions why it would be nice to revisit a whole bunch of committees, whether they're ones we're doing specific reports on or things that are suggested by the appointees we see. I think this committee can look at any agency it wants, and I would have concerns about locking ourselves into this one particular agency which in general doesn't raise any major concerns. I think I would not support the motion because I don't feel that we should lock our time into this one particular one.

**The Chair:** Okay. Is there any more discussion on this motion?

**Mr Grandmaître:** Can I just, before I get shot down—I think Dr Frankford is absolutely right. This is the responsibility, and it's our mandate to review every agency, or as many as time permits. You know, our visit to Science North was a very recent one. Now that this report is before us, why can't we deal with it? If you want to invite any other agency to find out how the latest budget cuts have affected them, I'm all for it, but as the report is before us today, why can't we deal with it today, and ask this agency to appear before us within the next six months?

**The Chair:** That is the motion.

1050

**Mr Marchese:** We are extending it rather unnecessarily. We should give this agency an opportunity to respond to some of the recommendations we've made. Some of them perhaps require dollars, they say, and some do not. My point is, give them time to respond to this. They will respond to us in terms of how they've dealt with that. Once we've seen what they have done, you will be in a better position, and so will we, to be able to either make other recommendations to deal with this by having them come or other things, but I think we should give the report and then some time to deal with this matter.

**Mr Grandmaître:** But, Mr Marchese, you're saying it's going to take a year, and I'm saying it doesn't have to take a year.

**Mr Marchese:** I'm not talking about the year now.

**The Chair:** Okay, the motion, as moved, is to ask Science North to come before the committee within six months from today. Is there any more discussion on that motion? All in favour of that motion? Opposed? The motion is lost.

**Mr Grandmaître:** God, I feel lonely on this side.

**The Chair:** Yes, I think so.

Is there any more discussion on the report regarding Science North? All right. Mr Pond.



**Mr Pond:** The Central Lake Ontario Conservation Authority: The first point to make about this is that the committee agreed at the meeting on February 3—you can infer this from the fact that this memo is only three pages long—that there would not be a big report on this particular conservation authority. The hearing didn't raise that many crucial issues.

The one issue that came up again and again, and with regard to which some of the members differed with the witnesses, was on funding. If you recall, a persistent theme in the testimony of Mr Campbell, who is the chief administrative officer of the authority, is that the gradual decline in the provincial grant to the authority, over many years, hampered the ability of the authority to execute its mission, if you like, and undertake new projects.

Some of the members pointed out that if you actually looked at the figures, the amount of money that this authority was getting from the province year after year after year, and certainly vis-à-vis the amount of money other authorities were getting, this particular authority, relatively speaking, wasn't doing that badly. Their grants had not declined precipitously and they more or less reflected inflation.

So the committee agreed at its brainstorming session that it was unrealistic, in any case, for the authority to expect to get large, fresh infusions of government money in the future, either from the province or from the participating municipalities, and the committee agreed that in the future—the recommendation is in the middle of page 2—the authority should consider raising more of its needed revenue internally, and the authority listed many of the things it already does to raise money internally. It's quite a wide variety of methods it uses to raise money internally.

The committee also noted that the only source of revenue which had, at least in percentage terms, increased substantively over the last few years was in fact internally generated revenue. Hence, the recommendation on the middle of page 2.

The only other matter that members discussed at the brainstorming session in terms of a recommendation—and I have this on page 3 in italics because the committee did not agree on a specific recommendation—was with regard to the membership of the authority. If you recall, 13 out of the 15 members of this authority are appointed by Durham regional council, two are appointed by the province.

It's the policy of Durham region not to appoint anybody to the council except from among its own members, ie, it does not appoint local councillors who don't also sit on the region, and it does not appoint private citizens.

Some of the members pointed out to the authority that as a result, one might consider that this authority is

in effect a committee of regional council, and the chair of the authority said that that in effect is true; he sits on Durham and he said that's the way it's going to continue, because Durham wants to exercise control over how the money is spent.

The only point here, and members raised this, is that the Crombie report, if you recall, reviewed the operation of three or four authorities, including this one, and suggested that in the future there should be some change in the way authority members are appointed in order to bring in people with a different perspective than you might ordinarily get from a municipal councillor; hopefully, people more sensitive to the kind of ecosystem concerns that Mr Crombie raised in his report.

This idea was kicked around a bit with the witnesses, and Mr Harrell said, "Well, maybe we haven't done enough in the past to make the authority more sensitive to citizen input, public input," and Mr Campbell said that in principle—he had no responsibility for this, obviously, but in principle he thought it was a good idea, that more people should come on to the authority who are from outside the formal political system. So I've left this as an italics in the middle of page 3, at the bottom of the text, for your consideration. That's it.

**The Chair:** As a former municipal councillor, those are really interesting comments.

**Mr Pond:** I'm just reflecting what was—

**The Chair:** No, no, I know you are. Mr Marchese.

**Mr Marchese:** I thought the suggestion in (a) is a useful one. We don't want to, I don't think, force them to do this, but we may want to recommend that they do this in light of some of the concerns that were raised in this committee. I think it would be useful to recommend to the Durham regional council that it consider making appointments to the authority from outside its own ranks because we believe it would be useful to the authority and to the community to have the expertise of communities to advise on how to deal with issues of conservation. It would seem to me useful to make that recommendation to them.

**The Chair:** Any other discussion?

**Mr Grandmaître:** Yes, Madam Chair. Mr Pond, we did talk about their financial woes. Are you telling me that they don't have a problem now?

**Mr Pond:** Well, no. To be precise here, as far as they're concerned, they have a problem, one. Two, it is a fact that the provincial grants to the conservation authorities in general have been declining since the 1970s. I mean, that's no great secret, and as you know, the association actively lobbies the provincial government for a new funding formula.

I think the point the members were making was, relative to other authorities, this particular authority had not been hard hit. That's putting it crudely. Other



authorities had taken bigger cuts, proportionately, in percentage terms.

The second point I think the committee was making was that there's no point in recommending that the province spend an enormous new sum on this particular authority, because it's not going to do that; that's just not going to happen.

Hence the notion that if the authority wants to raise more money—and I should point out, its grant has more or less remained stable, with small reductions, in the last couple of years; its municipal levy has gone up every year, no doubt about that—then it should be looking internally, that this was the only other place it could realistically look at in terms of raising its own revenue: in the real world, so to speak.

**Mr Marchese:** I also recall that this is one of the authorities that raised the least amount of money in terms of revenues that are generated by doing activities such as a boat launch, campsite and so on. I think it was 3%.

**Mr Pond:** They declined to answer that. Mr Campbell said, "I'm not going to tell you what other authorities are doing, just our own revenues."

**Mr Marchese:** So we support the recommendation that's here in terms of them looking at revenue generation ideas internally.

**The Chair:** Are we moving approval of this report?

**Mr Pond:** I'll have to come back to you.

**The Chair:** So this report will still come back to the committee.

**Mr Pond:** Yes.

**Mr Marchese:** We can adopt this report by adopting recommendation 1 and saying on page 3 that we recommend to the Durham regional council that it consider making appointments to the authority from outside its own ranks because we believe community involvement is important. So we should move that. I would move that motion and then adopt the report.

**The Chair:** Would you like to make a motion to that effect?

**Mr Marchese:** I would move that we accept recommendation 1 and move as recommendation 2 that we send a recommendation to Durham regional council to consider making appointments to the authority from outside its own ranks, and that the report be adopted and be sent for translation.

**Ms Carter:** Should we add that phrase, "so that more representatives of local, non-government environmental conservation groups are included"?

**Mr Marchese:** Sure.

**Ms Carter:** I think we want to get that point in there.

**The Chair:** And that the report be approved and sent for translation. All in favour of that motion? That's carried.

## 1100

**Mr Pond:** The last one is the Metropolitan Toronto Police Services Board. This is not a draft report. If you recall, at the last meeting, February 3, the committee agreed that it had not yet reached the point where there was any consensus on the committee about possible recommendations. The committee, at that point, couldn't agree to draft recommendations, so I was instructed instead to identify the issues which had come up in the testimony and subsequently been discussed by the members in the brainstorming session. So if I may be precise here, that's what this memo covers: those issues that members pinpointed themselves after the testimony. The last page includes a list of other issues which the witnesses themselves brought up, if you like, but which the members of this committee didn't address at the February 3 meeting.

The first issue that members wanted me to pinpoint was with regard to the composition of the police services board. Members will know that on many occasions when it has been discussed—order-in-council appointments to police services boards as well as this particular police services board—the issue of whether the province should continue to have a majority of the members on police services boards has come up. Again, the members discussed this at the last meeting and didn't come to any firm conclusion.

Ms Eng, for her part, suggested that in the case of this board it was really an academic issue, since in practice, under her chairmanship, there was a consensus on the board, that the provincial appointees and the municipal appointees didn't divide on that basis. So as far as she was concerned, it was more or less a non-issue.

Mr Lymer, the president of the police association in Toronto, favoured the current arrangement. He felt that if the municipalities controlled the majority of appointments on police services boards, you'd wind up with a situation where it would be very difficult for the province to enforce uniform policing standards.

Mr Chong, who appeared before the committee, a former Metro councillor—I should point that out—thought Metro council should have a majority of the members. So that would require a change to the act. That was the first issue.

The second issue was this issue of whether police services board members should be full-time or part-time. Ms Eng is the only full-time chair of a police services board in Ontario. As you know, all other police services board members serve part-time.

There are two issues here. One was raised by Ms Eng herself. She pointed out that, as was the case under the act, the chair of the board was elected from among the members. Given the fact that for this particular board the chair was full-time, this could potentially cause in



the future a procedural problem, in that the only people on the board who would be eligible for election to the chair would be those willing to serve full-time. Potentially, you could have a problem in the future, whereby nobody would be willing to serve full-time, so how could they elect a chair? She suggested that the committee address its mind to this and either empower the provincial government to directly appoint the chair of this particular police services board or require that all prospective appointees to this board in the future must be prepared to serve full-time before they're appointed; one or the other. This is an issue she raised.

The second issue was whether part-time board members are involved enough in the job, whether perhaps they should be full-time in order to do a good job on this board. This was raised by Mr Lymer. It's been his position for a while that police services board members, with the exception of Norm Gardner—this is Mr Lymer's view—don't spend enough time on the job.

The next issue was Ms Eng's performance as chair of the police services board. If members will recall, this was quite controversial. Some members felt she was unsympathetic to front-line officers' concerns. I'll leave it at that. You can read this paragraph.

The next issue, which was debated extensively, was the issue of the collection of statistics on the basis of race. If you recall, some members of the committee feel that when the police collect their statistics, they should be identifying the race of either the suspect or the offender, if they've arrested an offender. Ms Eng is opposed to this. She feels that if these statistics are collected and released to the public, they'll be used to stereotype various community groups in Toronto. Mr Chong, who appeared before the committee, argued that generally the police should be collecting more statistics, which would give a more complete profile of offenders, and one element in that profile should be the race of the offender. He argued that governments, including the police services board, needed that information as a policy tool.

Allan Andrews, the auditor from Metropolitan Toronto who did a comprehensive study on race relations practices of the force—he appeared before the committee—didn't address this issue directly in his testimony, I don't think, but in his report he goes into this quite extensively, and I've summarized his findings on the second half of page 3. I'll leave it at that. That issue, if members will recall, is quite controversial.

On page 4 are other issues which the witnesses raised but which the members themselves didn't subsequently address at the February 3 meeting; for example, the issue of police training, education. As you know, the Clare Lewis task force has strongly recommended there be more training of police officers. Ms Eng, when she appeared before the committee, said, "Yes, I agree with that very strongly, but the province is going to have to

fund it in the case of our police services board."

The Ontario Association of Police Services Boards, upon which Ms Eng serves, argued that new members of police services boards should get more training about their roles and responsibilities. Ms Eng also supported this recommendation. She raised that issue.

The use-of-force regulations didn't come up so much in this round of hearings. It did come up previously. You will note that the police services board has voted, under the terms of these new regulations, to keep the reports on officers' use of weapons for only 30 days. The other option was two years.

Finally, the special investigations unit. Members will remember that this has come up regularly when it has reviewed appointees to the Metropolitan Toronto Police Services Board. It's probably fair to argue that Ms Eng's criticism of the SIU reflects that of many police officers; ie, the SIU investigations take too long and the SIU needs more highly trained forensic investigators to do a good job.

That's it.

**The Chair:** Any discussion?

**Mr Grandmaitre:** If I may comment on the part-time or full-time board members, Madam Chair, I don't agree with Ms Eng that we should empower the provincial government to directly appoint the chair of Metro Toronto police. I don't think that we should politicize the police services boards of this province more than they are politicized now.

By appointing—I think the Premier gave a very strong signal that he wanted Ms Eng to be the chair, and he was very successful. This committee appointed people to the police services board to make sure that Ms Eng would become the next chair of the Metro Toronto police board. So I totally disagree with Ms Eng that we should empower the provincial government to directly or indirectly appoint the chair, and I don't think that we should have more full-time members of any police services boards. I think we have to give Joe and Mary Public the opportunity to sit on those boards, and a lot of commoners cannot simply sit full-time on police services boards. I think we should give the opportunity to every citizen, not only in Toronto but in every community, to sit on these boards. Those are my comments.

**The Chair:** Thank you. Any other comments?

**Ms Carter:** I'd like to just comment on the collection of crime statistics on the basis of race and say that I agree with Ms Eng on that. I think it would be very problematic as to how you would do this, who would decide what race somebody was.

As far as employment equity goes, we're going to say that it's self-definition, that people say what they think they are, what race or whether they're disabled and all the rest of it. That is reasonable, I think, because it's



going to work to their advantage.

Now, if somebody's in trouble with the police and you ask them what their race is, it seems to me it would be to their advantage to say they were something other than what they actually were. So I'm just wondering where this definition would come from, even if we decided that it was a good idea, which I'm inclined to think it isn't.

**Mr Mammoliti:** On that same note, I'd like to argue another point to this, if I may. Most of the crime out there that currently exists exists because of a particular reason or reasons. A lot of individuals who commit crimes are high on some sort of a substance or are addicts or perhaps have a particular problem that they're trying to address in their lives. A lot of the addicts who exist—and a lot of the crime—exist because of particular cultural problems. I'm trying to think of a way of perhaps addressing the concerns of stereotyping, because I know that might be a potential problem, but at the same time trying to address the real problems that exist out there.

1110

Enforcement isn't always the answer. Sometimes statistics are important to deal with things like addiction. Addiction is caused for the most part, I would say, because of particular problems that exist in households. A lot of them are cultural, and those groups might not organize themselves unless they know that there is a particular problem that exists within their culture or within their particular organizations or communities.

I'm wondering whether or not statistics might help in that way. Can we find a way to address the real concerns of crime? Instead of just locking people up and not worrying about their cultural backgrounds, instead of just saying we're going to throw away the key, maybe we should start looking at why these crimes are being committed. So statistics like this—and maybe some of my colleagues might disagree with me—are necessary. I think, personally, that there's some merit to more discussion on this.

Now, I realize that we're going to want to perhaps adopt this package today, but I also think that there's some merit at a future date—

**The Chair:** We don't have to adopt the report today. This is actually just an interim—

**Mr Mammoliti:** I think there's some merit to discussing. If you'll bear with me for one second, I'll explain the reasoning behind my logic.

Recently I took a tour of our jails in and around Metro and some right around the province, and a lot of the inmates, a lot of the clients, are from different cultural backgrounds. There's no question about it. The majority of our inmates, as a matter of fact, in Metro and the surrounding areas are just that. In the north they're of course aboriginal. In the north, we know that

the aboriginal community has a particular problem when it comes to substance abuse, and unless we gather these statistics and find out the reasoning behind the crimes, we're never going to solve the issues.

So there is some logic to gathering up statistics, and I don't want to see us just say no to it because we're afraid of the stereotyping. I think we should be using these statistics in a way that could be positive, and that's why I'd like to keep the door open.

**The Chair:** You're looking at perhaps some way of identification in order to solve the root cause.

**Mr Mammoliti:** Exactly.

**Mr Frankford:** I tend to agree with Mr Grandmaître on leaving it more open for the community and that the members might decide among themselves about the status. I think that we probably should continue to see part-time members.

On statistics, for a start let me mention something which David Pond mentioned to me this morning, which is that there isn't uniformity about producing annual reports among police commissions. Metro does, but this is not consistent policy throughout the province. Apparently some big cities—I believe Ottawa—do not even produce an annual report. I think reporting is very important.

If I can refer to what my colleagues have said here, I think the definition of "race" is very problematic and there's a question of who decides. Is it self-reporting or is it an assessment by the police officer? What is "race"? Does it really mean skin colour, or is it something that is definable? Is it nationality?

I think there are some real definitional problems there, and I'll point out that, even leaving that aside, there are a lot of problems about producing consistent statistics about crime, even defining the crimes. I think it's fair to say that the existing crime statistics leave a lot to be desired, that criminologists would say there's no real consistency about how the crimes are defined, so that isn't even getting into the question of how you define "race" and then how you correlate the two. I think it's superficially very easy to say you can do this. I think, in practice, to do it in a meaningful manner is very problematic.

On Mr Mammoliti's questions about having enough statistics to do some real planning and understanding, I agree with that, but I think this means that one has to collect many statistics and I think there are other things which I imagine would correlate every bit as well and which I think in fact are easier to obtain, things like place of residence, level of education, income. Substance abuse has been mentioned. I don't know how easy it would be for the police to consistently identify substance abuse. Obviously, when someone comes in high, it is easy enough. But I suspect there's a lot which you really couldn't accurately identify unless you started



doing routine urine tests on everyone. I would suggest that that's not practical and would cost far too much.

I guess I'm saying I think we have to be moving towards more comprehensive crime statistics. I think that race is in fact a very minor aspect of it. I think the other things which can be put into it are probably much more meaningful. If there are any questions about this, I would suggest that we might want to get some academic criminologist to come along and give us an outside opinion.

**Ms Carter:** Following up on what has just been said and Mr Mammoliti's comments, I think the point is taken that crime is often caused by problems in people's backgrounds. I think we know that and I think we can work on problems to do with housing and schooling and cultural deprivation, if you like, and drugs and so on without having to compile lists of the racial origins of people who have these problems.

I agree with Mr Frankford that this would just compound the problem. Of course, the trouble is that once statistics are available, if they do show that certain groups are overrepresented, then this does open the door to prejudice and all kinds of adverse reactions, which I think we are all agreed would be stereotyping. In fact, it isn't the race that causes the problems; it's the situation that a particular group may find itself in. So I still feel that we can combat these problems better without having the statistics, although we know there are these causes.

1120

**The Chair:** Mr Marchese.

**Mr Marchese:** Three comments, Madam Chair. One is on the whole issue of a full-time board member and the appointment to be made by the province, as opposed to the current system.

Mr Grandmaître raises an interesting point in terms of how having the province make the appointment might politicize the appointment. I would argue quite the contrary, that the present system is highly political and in fact it encourages political divisions internally, even though it's made by those different community members that are there. In fact there's a great possibility that if you had the province do it, it could depoliticize, as opposed to doing exactly what you're saying. Your point is, because an NDP government makes the appointment, it's by its very nature political.

**Mr Grandmaître:** Any government.

**Mr Marchese:** Okay, but to argue that a municipality, for example, or at least the members of that board are any less political in the way they appoint a person is not necessarily all that clear either. There's a lot of politics there is what I'm arguing. The other might be even less political than the other. I offer that as a counterbalance to that argument, without making a recommendation in that respect.

On the other matter of statistics, I agree with Mrs Carter on that, but rather than saying "cultural deprivation" I would add "poverty deprivation," because it's poverty that deprives young men and women, as opposed to culture. It's whether people have money or not, whether they have adequate housing, as you were saying, or not, and education, whether they're limited by other problems, all of that. I'd rather leave that issue alone, and I don't know, in terms of the variety of views that we've heard, that we would come to any conclusion today and would recommend that we adopt this report, as a final comment, without recommendation. That would be my motion, Madam Chair.

**Mr Mammoliti:** I don't have a problem with the recommendation to adopt the report. My recommendation would be to just keep the door open for discussion on this, on the issue that I've brought up. I, being of Italian descent, know that in the Italian community there are a number of different cultural problems that lead to crime.

I don't say that because I just feel like saying it; I say it because it's fact. I've spoken to a number of experts in this area and they feel the same way. The community itself would like—in my opinion anyway, and I haven't had the opportunity to really investigate—but I believe that the community itself, my community, the Italian community, would want to know information, would want to know what types of things are happening within the community, so that it could start some type of educational process within its own community. Unless we get statistics like this, it will never happen.

The only way to address the racial aspect and the racial problems that exist in society is through education. Realistically, withholding certain information will never get rid of your racial problem. We need to address that through education. We have to get into our schools and we have to do the appropriate things that government does to educate the public on racism.

But in terms of a particular problem, and this being crime, I sincerely think that the door needs to be open on this and we need to discuss this further. I would agree with my colleague Mr Frankford that we perhaps invite a criminologist, an expert person, to talk a little bit to us about this particular issue. It might be a good idea. I know I would have a few questions to ask and I know that my colleagues might as well. Maybe that's a motion that I'd like to put on at this point, and at the same time agree with Mr Marchese and adopt the report as is, without any recommendations.

**The Chair:** All right. There is a slight problem with Mr Marchese's motion, because he's moving adoption of a memo in fact, not a report. You have the option of going through this memo and giving a comment, a motion on each part of it, and then the memo becomes the report, or you can refer it back to Mr Pond to come back with a complete report as a result of this memo.



Maybe Mr Pond would like to explain.

**Mr Pond:** As you can see from this, all I've done here is lay out the issues. I haven't laid out any recommendations. What we've done in the past with other similar agencies is either go through this and specifically adopt recommendations one way or another or simply decide not to issue a report on this agency at this time.

Then what we've agreed to do with, for example, the Grand River Conservation Authority and Ontario Northland Transportation Commission is, in the introduction to the next report, simply spend a few sentences noting that the committee has heard from this particular agency the following dates, that certain issues came up but the committee, for whatever reason, decided not to issue a formal report at this time, and leave it at that, one or the other. I mean, if you want to issue a report, you're going to have to come up with some recommendations.

**Mr Frankford:** I think that Mr Pond could, having listened to what we've said today, go back and produce a report or a draft report, because I think there are some important issues being raised.

**The Chair:** Mr Marchese, you had a comment too.

**Mr Marchese:** Yes. My sense was that because there is no agreement on a number of different areas that we have talked about, I felt that we could send it off in that way and presumably the ministry would have this memo—do you call it a memo?—as it is, with issues that are raised, and they could lift what they wanted or not, respond to something or not, and that would be the report.

**The Chair:** But I think the responsibility of the committee is to complete—the committee has reviewed this matter, and I would think that the committee has to finalize the review in a formal way.

**Mr Marchese:** I understand that. My sense was that to simply have Mr Pond go back and again put in the report suggestions or statements that we've made and bring that back wouldn't be useful to us unless that produced a recommendation of some kind. I'm not sure

it would do that, so it would be my sense to move that we not issue a report.

**Mr Pond:** A question of clarification: What we can do, and I think this is what you meant—as you know, in these reports the first half is a narration of the agency, how it works, and in the second half are the recommendations. What we can do is do a report on this agency where we have the first half, and then the second half is essentially this, with a brief intro saying, "These are the issues that the committee pinpointed for discussion. Here is the discussion, but we're declining to issue formal recommendations," if you like.

**Mr Marchese:** Move that.

**The Chair:** Would you then include Mr Mammoletti's comments from today?

**Mr Pond:** Yes.

**The Chair:** All right. Is that acceptable?

**Mr Marchese:** That's fine, yes.

**The Chair:** Then when Mr Pond has done that, the committee can look at that again before we approve it. All right? That doesn't require a motion, no. Thank you.

That concludes the committee agenda, but I do need one final motion. The motion that I would like someone to move is that the Chair, upon receipt of the four translated reports, instruct staff to prepare the report, including responses to the last report of the committee, and upon receipt of that printed report, the Chair table the reports pursuant to the standing order requesting a response.

**Mr Grandmaitre:** Carried.

**The Chair:** That motion covers the four reports. The four reports are the Liquor Licence Board of Ontario, the Ontario Board of Parole, the Ontario Municipal Board and the Central Lake Ontario Conservation Authority.

All in favour of that motion? Carried.

Thank you very much, committee members, and the committee stands adjourned.

The committee adjourned at 1129.



## CONTENTS

Wednesday 28 April 1993

<b>Election of Chair</b> .....	A-1
<b>Election of Vice-Chair</b> .....	A-1
<b>Appointment of subcommittee</b> .....	A-1
<b>Subcommittee report</b> .....	A-1
<b>Committee business</b> .....	A-1

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Grandmaître, Bernard (Ottawa East/-Est L)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

\*In attendance / présents

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service





A-2

A-2

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 12 May 1993

# Journal des débats (Hansard)

Mercredi 12 mai 1993

Standing committee on  
government agencies

Subcommittee report  
Appointments review



Comité permanent des  
organismes gouvernementaux

Rapport de sous-comité  
Révision des nominations

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Coat of arms**

A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

### **Table of contents**

Table of contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Les Armoiries**

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.



## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 12 May 1993

The committee met at 1005 in room 228.

## SUBCOMMITTEE REPORT

**The Chair (Mrs Margaret Marland):** Good morning. I think we'll get our meeting started. We could start by approving the report of the subcommittee which has just been circulated to you, if someone could move that report, please.

**Mr Rosario Marchese (Fort York):** I move adoption, Madam Chair.

**The Chair:** Thank you. Are there any comments on the subcommittee report? It's been moved by Mr Marchese.

**Mr David Pond:** Do you want me to speak to this, Lynn?

**Clerk of the Committee (Ms Lynn Mellor):** Yes.

**Mr Pond:** Under item 3, re certificate of April 15, 1993, Mr Cowan is getting appointed to three boards simultaneously, as required by the relevant statute. My notes indicate that the agency which the subcommittee chose to review him in the context of was actually the Laboratory Review Board, not the Health Facilities Appeal Board. According to Lynn, this is the principal one, so the paper you'll get from me will be with reference to the Laboratory Review Board, not the Health Facilities Appeal Board.

**The Chair:** So why does it have to say Health Facilities Appeal Board?

**Clerk of the Committee:** The Health Facilities Appeal Board is the principal appointment of the three; the other two only happen as a result of the appointment here.

**The Chair:** I see.

**Mr Pond:** Just to let you know, though.

**The Chair:** So that's one individual who's being appointed at the same time to three positions. Any other discussion? All in favour of Mr Marchese's motion? That's carried.

You're in favour, aren't you, Mr Curling and Mr McLean?

**Mr Alvin Curling (Scarborough North):** Yes, I am.

**Mr Allan K. McLean (Simcoe East):** I don't know whether the record signifies whether I was or I wasn't.

**The Chair:** I think everybody has to vote one way or the other. Let me just ask the clerk.

**Clerk of the Committee:** There's no abstention in committee.

## APPOINTMENTS REVIEW

Consideration of intended appointments.

MELVIN JACK RIPLEY

**The Chair:** Starting with today's agenda then, I would like to welcome Mr Ripley, if you would like to come forward, please. Good morning, Mr Ripley.

**Mr Melvin Jack Ripley:** Good morning.

**The Chair:** Mr Ripley, if you would like to make some brief opening comments to the committee, then we will divide the time equally between the three caucuses to talk to you about your appointment.

**Mr Ripley:** Thank you, Madam Chairman. By way of opening, I'd simply like to say that I respect the work of this committee on appointments for government agencies and in particular my opportunity to come before you. I would also like to acknowledge the presence of Randy Hope, the member of Parliament from the riding I reside in, in the Chatham area. I guess those would be my opening comments.

**Mr Curling:** Can I just talk now?

**The Chair:** Yes, thank you, Mr Curling.

**Mr Curling:** Let me too welcome you, Mr Ripley, to this committee. This is my first day also, so there are many firsts, I presume.

I was reading your credentials, and they're quite impressive. It is quite timely too that you come before this committee to serve on this board, this corporation. Many times, when one is asked to serve on any corporation or any board, they always say it's an easy thing, and later on you find they attach more work to you, more and more and more. As a matter of fact, the Ontario Development Corp is into a real test these days—and you know the mandate of the corporation—considering that the government has just now decided it will cancel, whatever it calls it, the 17 offices internationally, the Ontario Houses. It's going to put a tremendous pressure on many of the small businesses here to operate. Do you see that cancellation, sir, making a great impact on the Ontario Development Corp?

1010

**Mr Ripley:** Actually, I have never really, up to this point, served on the ODC. Apart from having just a very sketchy idea of the mandate of the development corporation, I really don't have an informed and a good judgement on the point you bring up. I guess I feel it's important to do economic development in one way or another, and what the most cost-effective and most efficient way to do it is is not something I feel confi-



dent to talk about right now.

**Mr Curling:** Let me just read a little portion of its mandate. According to the 1992-93 Estimates Briefing Book from the Ministry of Industry, Trade and Technology—the nice name they've put to it now is the Ministry of Economic Development and Trade: "The corporations' programs are intended to foster: innovation; entrepreneurship; expansion of both international and domestic trade...." It is that aspect, the challenge I put before you.

There are many times when government or whatever gives you jobs to do and it never gives you the tools. I was saying to you that, seeing that the government has now cancelled, for a cost-saving factor—I don't know the rationale; I think it's trying to save money—all of those offices in Japan, in New York, in Germany, I find that your job here will be quite expansive. I don't want to ask you your views of the government; I just want to say to you that your job will increase tremendously on this level, and the Ontario Development Corp mandate seems to be much more onerous, considering that the jobs abroad will not be done now. Do you think that will have an impact? In your own view, do you feel that the Canadian embassies abroad would be quite efficient to carry out some of the jobs intended to foster Ontario businesses and promote Ontario businesses?

**Mr Ripley:** I guess my response would be that, as you can see from my résumé, I'm currently chairman of Innovation Ontario Corp, which is a sister company of Ontario Development Corp, and, the extent to which I know both of these organizations, their mandate is to certainly build a strong economic development base in the province, which can not only serve the business needs of the provinces but to explore market opportunities abroad, outside the boundaries of Ontario.

Certainly Innovation Ontario, I think, has been very effective in helping to create and to assist small companies in that process. I just have a feeling that if you've got to make sacrifices anywhere, I'm happy to see that we're maintaining the strength of our base at home by support to IOC and budgetary support to ODC. I think out of that base, then, we can do a reasonably effective job in promoting economic development outside the province.

**Mr Curling:** Madam Chair, how much time do I have?

**The Chair:** You have just five minutes.

**Mr Curling:** I don't know if my colleague wants to ask a question.

**Mr James J. Bradley (St Catharines):** You're doing such a good job, I will let you continue.

**Mr Curling:** Thank you very much. At this time, Mr Ripley, in our economy I find that the bankruptcy of small businesses is so high. I come from the constituency of Scarborough North, where quite a growing—

**Mr Bradley:** Home of the Rouge Valley.

**Mr Curling:** Yes, it is, of course, as my colleague says, the home of the Rouge Valley and many businesses, as a matter of fact, a very, very fast growing community. Bankruptcy rates are pretty high, and I know this corporation is the one that provides loan guarantees to businesses of that nature.

I don't know if you've had a chance to look at the type of money that's available or whether you could comment: Is there adequate money going into the corporation? Do you feel that the government has provided sufficient resources to support or to assist those businesses that are really hurting now? I don't know if you've had a chance to see the budget of the Ontario Development Corp. Do you feel there are adequate resources there, and support you can get from the government?

**Mr Ripley:** I really don't know what the budget is of ODC in terms of what's available for direct loans and loan guarantees. If I had a comment, it would be just a very philosophical one.

I have this feeling that in good times, businesses out there are paying taxes and contributing to the public purse, and when times get soft and difficult, I like to think that tax-paying businesses have got some credits sort of in their account, in the tax accounts, in the public purse, that would allow them to be bridged during their difficult times to a period of time when the economy gets stronger and they can get back into a tax-paying mode again. So philosophically, I can support the idea of the government providing loans and loan guarantees.

Clearly, you've got to prioritize your money. I mean, you don't have—

**Mr Curling:** And that's the reason for my question, because the fact is that small businesses like those you'll be overseeing and giving loans to will have to be a priority of this government. Maybe just as a comment, not a question, and advice that I may give, if I can take this prerogative to do so: to make sure that adequate resources are given to the Ontario Development Corp and that the commitment by the government is such that the small businesses are being supported in that direction.

I say to you too that what I've seen in the past in the decisions that are made by the government, understandably so in some respects, about the fiscal restraint and cost-cutting measures that have been taken—but I worry about the small businesses and I depend on a corporation like yours, if you're going to sit on that board, to carry the message, very loud, back to the government that without the proper resources, small businesses will just die, because they've already cut off that link internationally as to how they could export their goods and make markets available. I say that your corporation



would play an extremely important role at this time.

I have no further questions. Those are my comments to you.

**The Chair:** Thank you, Mr Curling. Mr McLean.

**Mr McLean:** Welcome to the committee, Mr Ripley. Did you ask for this appointment? Were you interested in applying? Who asked you to apply?

**Mr Ripley:** Actually, I got a call from the minister's office asking if I would be willing, as a cross-appointee from Innovation Ontario Corp, to sit on this board, and I said I'd be willing to let my name stand in nomination.

**Mr McLean:** You introduced your local member this morning. I thought maybe he might have had something to do with your appointment.

**Mr Ripley:** Well, I took the time to advise him of the pending appointment and my appearance before this committee, and I'm pleased that he took the time to be here this morning to show his interest.

**Mr McLean:** Do you have knowledge about the ODC? Mainly, which area are you familiar with? Are you familiar with section 12 with regard to the loan area? Are you familiar with the area that has to do with the offices that have been closed? Which area have you been most familiar with?

1020

**Mr Ripley:** I must confess that at this point my knowledge is very sketchy. I guess I somewhat define ODC in terms of its contrast to what IOC, the Innovation Ontario Corp, does. In my mind, ODC is a crown agency of the Ministry of Economic Development and Trade committed to carry out the programs of that ministry which provide loans and loan guarantees to Ontario companies.

**Mr McLean:** But in the previous business that you had, did you ever apply or did you ever have a loan from the ODC in your previous businesses?

**Mr Ripley:** Never. I had no previous exposure.

**Mr McLean:** Do you know what a business has to go through in order to apply? Do you have some knowledge of that?

**Mr Ripley:** Yes, I have a fairly good feel for that.

**Mr McLean:** Do you think that perhaps they're a little strict on some of their requirements? I mean the working plan. They have to hire a consultant, most of them, to do the feasibility study of the operation of their business and what projections they're going to have, how many jobs are going to be created and all of that. Do you feel that may be a little strict or not strict enough?

**Mr Ripley:** I think you've got to do whatever is necessary to make sort of a cost-benefit judgement as to the worthiness of investing in or lending to a particular company. I am familiar with the fact that the agency

puts up \$5,000 maximum to applying companies, requiring them to obtain an independent consultant's advice, and I guess probably to verify the numbers and the information so that as an application comes forward, at least it has the further credibility of someone at arm's length beyond the applicant.

**Mr McLean:** I guess the reason I asked that question is the fact that there's one company that got \$20,000—a licensed restaurant—through the ODC. When I look at a company getting \$20,000, the amount of cost there's got to be to go through to get that—and you have to have the guarantee of the bank in most cases—I often wonder if it should have been, say, that you can't get a loan of less than \$100,000. Several loans are for \$1 million, some \$750,000, plus one for \$20,000. I have to wonder if the cost is worth it, or why would somebody just get \$20,000?

**Mr Ripley:** I have no idea what the floor level is.

**Mr McLean:** These questions that I'm asking you will help you probably when you're dealing with some of these requests that come before you, because you may say the same thing as I'm saying: Why would somebody apply for a \$20,000 loan from the ODC? If they can't get it from the bank, why should the ODC then be lending a restaurant \$20,000? It's a good, interesting point that I wanted to make.

I wish you well and I hope you enjoy it. You're retired now?

**Mr Ripley:** Yes, I guess that's the term I use. I was at a seminar last week up at Caledon Mountain Trout Club. It was on the topic of retirement and all of us agreed, at least those of us there, that it was a word we didn't care to use to define our state of life. So I consider myself to be repotted or going through the seven-year itch and trying to do something else.

**Mr McLean:** I wish you well and I hope you enjoy it.

**Mr Ripley:** Thank you.

**Mr Marchese:** Good morning, Mr Ripley.

**Mr Ripley:** Good morning.

**Mr Marchese:** Can I ask you a very simple question? Why is it that you want to be a board member of the Ontario Development Corp?

**Mr Ripley:** I think there are probably two or three reasons, one of which is that I think I can make a contribution. If you look down through my résumé, you can see that while I was employed for pay over the last 40-some years, I think I demonstrated an interest in doing something in a public way, working with government and other people just to enhance the country, if I could. So I view this as a chance to make a contribution and I think I've got background that would be useful.

**Mr Marchese:** Okay. The corporation's programs are intended to foster many different things: innovation,



entrepreneurship, expansion of domestic and international trade, regional diversification, job creation, retention, development of the province's tourism industry. You would have the sense of these. Given your background, you probably would have heard about the purpose of this corporation. Would you say that the corporation has been doing its job in fostering these kinds of activities effectively or not effectively?

**Mr Ripley:** I guess my view is from one who has kind of looked at ODC, certainly from a distance. But I noticed you used the term "innovation" as well, so I sort of pull myself into the context of being chairman, presently, of Innovation Ontario Corp. In a very specific sense there, I believe that organization has done an extremely effective job of providing equity support and other assistance to small, technology-based businesses in the province. I think if we were not there to help these companies, the private sector just doesn't have a disposition to put money into early-stage companies.

There, unfortunately, I think we find an awful lot of failure of companies early in the game; if provided a little bit of bridge support, eventually some of these are going to turn out to be pretty good companies. But in a general way on ODC, I guess I only know it from what I read in the paper. In the last several years we can see that there have been a lot of companies needing help and assistance over these difficult times.

**Mr Marchese:** Mr Ripley, given your background, did you have a vision of where you would want the corporation to go, based on your experience, based on what you think would produce wealth creation in the province—job creation in the long-term and wealth creation—that is spread out to a lot of people within the province? Do you have a vision that is different from this? Are there things that you would do differently, or are they basically in line with what the corporation has been doing all along?

**Mr Ripley:** At this moment I don't have any different vision than what's out there. On one hand, I see ODC providing support to companies that have been around a long time. They've been in the news: the Algomas, the Worldways and on down to much smaller companies. Yet on the other hand, Innovation Ontario is providing support to companies that haven't been around a long time. They're just starting to get up off the floor and to get going with new technology. So in both of the areas that I think it is important to attend to, the established businesses and the new emerging companies, I think the development corporations in total cover the waterfront pretty good.

**Mr Daniel Waters (Muskoka-Georgian Bay):** One thing: I'd like to almost answer Mr Curling's concern about the overseas offices. I can tell you that the past Premier of the province is just now returning from Iran, where he has been working with the Ontario International Corp on a sale of some product. So just

because the offices are closed doesn't mean that—the activity overseas is definitely out there and people are working at it.

One of the things that I would like to get your feeling for is the balance between industrial—working with the industrial sector—and the commercial and other commercial ventures. Do you think there's a good balance within ODC between those two?

**Mr Ripley:** I presume you're talking about, there, sort of the industrial sector vis-à-vis the emerging service sector. I really don't know the stats on that. My guess is that there's a fairly heavy orientation towards the industrial sector, because that has tended to be the older sector and it's been around for a while, even though, I guess, the service sector began to emerge a decade ago.

It just seems to me—and again this is just a personal opinion—the service sector maybe has survived the events of the last three years better than the manufacturing sector. I would guess the service sector tends to be more domestically oriented vis-à-vis the manufacturing sector that's maybe impacted by how well or how much trade you have with other nations.

1030

**Mr Waters:** Do you think the ODC, or an arm of it, should become more and more involved with things like IRDI in Midland, where we went into research and development on moulds and dies? Do you think the ODC should be trying to work for emerging or more advanced technology, even if it isn't owned by a specific industry but more of a broad-based technology to increase and put new technology in the province?

**Mr Ripley:** Whether that's a mandate for the development corporations, I don't know. I know that federally there have been programs around that foster scientific research and provide tax breaks for companies doing that kind of thing. I know that on the IOC side of it, Innovation Ontario Corp, we tend to like to think that just at the stage where the research and development has sort of finished itself and you've got some promise of some commercial opportunity out there is maybe an appropriate time for IOC to invest. But that's a tough call, getting back into the R&D side of it.

**Mr Waters:** But don't you see the potential of that for the future of the province, where growth in new technologies is so great? I recall sitting in this very committee, actually, reviewing someone for the Fair Tax Commission from the manufacturing sector who was talking about the Canadian worker versus the American and Mexican worker, who was very clear about the fact that the Canadian worker is so versatile compared to anyone else within North America, that for new and emerging technologies we would be a natural, if there was the support for this type of thing.

I know that at this point in time the ODC is not into



that, necessarily, but I was wondering if you thought that was something we should look at.

**Mr Ripley:** I would hope someone's looking at it, because in my view I think a lot of people have long felt that as a country, as a province, we could probably do more to foster research and development in the country and in the province. It sort of remains an open issue, but the tendency is, I think, when you get under the pressure of declining profits, to kind of pull back a bit, and that certainly doesn't support the long view.

**Mr Waters:** I guess that's why I feel that whether it be through ODC or whatever, it's very important in those times, because it becomes even more important that the government indeed put some of its dollars into that type of investment.

**Mr Ripley:** I'm going to take the time after to do a little bit of research and find out where we stand as a province on that.

**Mr Waters:** Thank you. I wish you well.

**The Chair:** Is there anyone else? All right. Thank you very much for your appearance before the committee this morning, Mr Ripley. We appreciate your being here.

**Mr Ripley:** Thank you very much. We look forward to a growing Ontario.

**The Chair:** We all do.

JACK R. SHAPIRO

**The Chair:** Our next appointment is Mr Jack Shapiro. Welcome, Mr Shapiro. Please have a seat. This is a selection by the third party, so, Mr McLean, perhaps you would like to start.

**Mr McLean:** Welcome to the committee, Mr Shapiro. I see that you've been involved in the health field for quite a number of years. Are you presently a trustee of the Toronto Hospital?

**Mr Jack R. Shapiro:** Yes, I am.

**Mr McLean:** In that capacity, what do you do?

**Mr Shapiro:** In addition to being a member of the board, I am chairman of a committee that was recently established by the board called a community advisory committee, which is an attempt by the board to reach out into the community and seek the best possible counsel on how we can best serve the needs of the community. I'm chairing that and took the initiative in establishing it.

**Mr McLean:** Good. Is that the same hospital that has the cancer clinic? Is that at Toronto General?

**Mr Shapiro:** No, the cancer clinic is at Sunnybrook, in addition to the Princess Margaret, but at the hospital they have an oncology department doing surgery and providing other services.

**Mr McLean:** I'm interested in knowing, and I don't know whether you have the answers or not, but how many cancer clinics are there in Ontario? Do you have

any idea? I don't remember.

**Mr Shapiro:** There are eight that are operated by the foundation: one in Toronto and seven others around the province.

**Mr McLean:** Is there one in Hamilton?

**Mr Shapiro:** Yes.

**Mr McLean:** I have a niece who is a doctor in cancer experiments in Hamilton and she's working at the Toronto hospital with regard to the cancer centre there, and I was curious to know how many there were, for an idea of the experiment. In your opinion, does there appear to be enough research money in order to do what you think is necessary or the medical profession thinks is necessary?

**Mr Shapiro:** I think it would be premature for me to answer that question. I don't have that information just yet. I have the impression from readings I have done that there are moneys available for well-considered projects and that there are well-considered projects being developed all the time, so there will be increasing pressures for money.

**Mr McLean:** What is your main reason for accepting this appointment on the cancer research foundation?

**Mr Shapiro:** There are two main reasons. One is a very personal reason. Like so many others, I have suffered losses through cancer. My own wife died after a two-and-a-half-year miserable illness, and I have felt that if there is anything I can do to help with the comfort of patients or improvement in morbidity or mortality rates which, God knows, are not within reach of many people, if I could do anything at all in that area, that's something I would really very much like to do.

The other is that I've had a kind of lifelong commitment to improving the access of health consumers to the very best possible care, and in an area as meaningful to all of us as cancer that's something I just wanted to be part of if I could.

**Mr McLean:** I hope you can help, because the concern I have is that we still seem to be having more cases every year. I'm wondering if there are enough funds in research to try to solve some of these problems, whether it's breast cancer or prostate or lung—they seem to be the largest ones now. What's your knowledge of skin cancer? Do you have any?

**Mr Shapiro:** Nothing specific. We've all read the papers and we all know what the current threats are and everyone has followed with great interest the story of Premier Bourassa, but I really don't have detailed information on it.

I can say, just to get back to the other point you raised, however, that research is part of it but I am a strong believer in prevention. Although the potential within the foundation for prevention is present, it's not the main focus of the foundation. But I would hope that



the foundation could play some role in inducing government and other agencies to increase the focus on prevention.

**Mr McLean:** It was a pleasure to meet you, and I hope that you can make a difference.

**Mr Shapiro:** Thank you, Mr McLean.

**Mr Robert Frankford (Scarborough East):** One of the components of the foundation is the Ontario cancer registry. Do you have any familiarity with that?

**Mr Shapiro:** I've read of what they're doing and I know that the data are being developed and used effectively. I have no further information on it.

**Mr Frankford:** I wonder if I could take this opportunity to raise some aspects of it which I've become aware of since I've been here.

**Mr Shapiro:** Please do.

**Mr Frankford:** On another committee we were discussing freedom of information, and some people from the foundation or the registry came to see us and they talked about a number of things to do with the registry.

One thing that was quite striking—and I'll declare a sort of personal interest in this because I myself have had three primary carcinomas of the large bowel over a period of years. So I asked the question, how could I be sure that I was registered as one person? I don't know how common this is, despite my medical background. It's obviously not very common, but it occurs.

1040

I wondered whether there was any way that I could check that I was considered one person, and they sort of said that with the privacy protection, I guess, I couldn't check on myself.

**Mr Shapiro:** I'm sure that information is available. I don't have it, of course, but it would seem to me not unreasonable just to want to be counted as one person and I would hope that the system would allow for that.

**Mr Frankford:** I think this is something you might well want to check into—

**Mr Shapiro:** I'm going to make a note of it. Thank you.

**Mr Frankford:** —because I think this is a very important aspect. I mean, the assumptions that are made about changes in incidence may or may not be true, but I think unless you use the registry or something equivalent, unless one takes an epidemiological approach, we will never know.

I think the importance of this cannot be underestimated. In the medico-political sphere, a lot of discussions take place about breast cancer, and it's not even clear whether it is in fact increasing, whether it is a statistical artefact. Lung cancer for sure is increasing, and that happens to be the one which obviously is preventable. In the case of the one that I had, I don't

know. If there was prevention, I will be glad to find it. There are some sorts of discussions about diets, but again I think, unless one gets an epidemiological handle on it, we're in the dark.

I would just throw out for your consideration that when one is talking of research, I think this is perhaps one of the cheapest and possibly most effective ways of going about it. Presumably, you're going to have to make some judgements about clinical research versus epidemiological research, and I don't know where your biases lie. If you want to elaborate on that, I would be pleased to hear, but I would suggest that an epidemiological approach has huge potential, and when we're talking about this in a political context, when we're talking about the allocation of resources, that is absolutely vital.

**Mr Shapiro:** I couldn't agree with you more. Coming from the public health field, as I do, we rely extensively on epidemiology. I quite agree with what you're saying. I do appreciate your raising the question and I'm going to be interested in finding out the answer to it. Thank you.

**Mr Frankford:** Just briefly, one thing that exists is the possibility of unique identifiers, and supposedly we have an OHIP system which has unique identifiers. I don't think it's working particularly well. Again, I think you might well want to look into that in conjunction with the Ministry of Health, because potentially, now that we've brought in unique identifiers, we can register the entire provincial population, which I think is not the case right now. I think there are probably some weaknesses in the figures that the registry has at the present time.

**Mr Shapiro:** Thank you.

**Mr Marchese:** Welcome, Mr Shapiro.

**Mr Shapiro:** Thank you, Mr Marchese.

**Mr Marchese:** The ministry is considering the establishment of a provincial advisory council to look at how to best use the limited resources we have in the whole field of cancer.

You talked about some of the experience you've had with the Toronto Hospital, particularly with the community advisory committee. I would presume that you've learned a great deal about that advisory committee and the potential good things that can come out of that in terms of how it advises the hospital.

What have you learned, based on that experience, that you could advise us or the minister or the ministry about how to put together the structure and the function of such a provincial committee?

**Mr Shapiro:** There's no question that the role of the community advisory committee of the Toronto Hospital so far has been absolutely invaluable. Where there were just enormous frustrations in the community over certain ways in which services were provided by the hospital,



today there is an outlet for those concerns to be expressed and to be considered by the governing bodies of the hospital.

I would say probably the best advice I could give to anyone who would listen to me in the creation of this committee would be to make certain that there is strong representation from the patient consumer groups and from the community at large, because the vision of professionals sometimes gets so narrowly focused that they miss what are the big concerns of the people we're serving, and I would hope that that advisory committee would be strongly oriented to the community and to the patient groups.

**Mr Marchese:** Thank you very much. Good luck.

**The Chair:** Ms Harrington, and we have four minutes left. Ms Carter is following you.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you very much, Mr Shapiro, for coming. I'm pleased to meet you.

I have two questions, first of all the concern about coordination of services across the province. As you know, there are very limited funds. I come from the Niagara area, in fact I represent Niagara Falls, and there is a problem of transportation sometimes to the Hamilton facilities. How would you view in the future regionally coordinating services and making sure that care is actually available everywhere.

Following from that, your organization, the Ontario Cancer Treatment and Research Foundation, as well as the Princess Margaret Hospital, are the two leading concerns here. How would you see them working together in the future, probably in a more integrated manner? How would you address that?

**Mr Shapiro:** You could appreciate that the information and knowledge I have on this subject comes from extensive readings but not from direct contact with the principal players, and everything I've read has left me with a strong feeling that this is something that really top priority must be given to.

In reference to the Princess Margaret and the foundation, they are both governed by legislation and hopefully would have seen a higher level of cooperation and integration of services than has so far taken place, and I would hope that I might be able to play some role in building some kind of consensus where there is no consensus perhaps on certain questions today.

As to the provision of services at the regional level, I think it's absolutely essential that there be a coordinated, holistic approach towards all of the needs of the patient community so that on a regionally organized basis, people know what services are available to them and have ready access to those services. I think that's another area of top priority.

**The Chair:** Ms Carter, a minute and one half.

**Ms Jenny Carter (Peterborough):** First of all,

welcome, and I'm intrigued to see that you moved the first successful motion at a Saskatchewan provincial convention calling for the establishment of a medicare system.

**Mr Shapiro:** Source of great pride to me.

**Ms Carter:** That's the beginning of a long and interesting history, I think, and we all hope that it continues into the future as we would want it to.

Now, we've already raised in this committee and you have mentioned, the question of prevention versus cure. I have read literature that suggests that something like 90% of cancers are environmentally produced in some way or another, whether it's the general environment or workplace problems or just sheer bad habits like smoking and drinking.

**Mr Shapiro:** And diet.

**Ms Carter:** Yes, and yet when we look at organizations such as the one you're going on or I hear my local cancer society people talking and so on, the emphasis seems to be on research for cures, and I think there's a danger, apart from the fact that we'd all rather not get cancer than have it and be cured. There's a question of money too, that it's far more expensive to have to put something right that should never have happened in the first place. I'm just wondering if you have more to say on that whole question of how we can prevent rather than have to cure.

**Mr Shapiro:** I'm not certain of the 90% statistic, although I too have read very big figures, but certainly I do believe that this is an important area for government intervention. When there is clear-cut information that given environmental or lifestyle activities contribute to the incidence of cancer, I think that government intervention becomes appropriate with a view to reducing the incidence. Certainly I would want very much to see the foundation playing as active a role as possible in promoting prevention as the primary goal of the battle against cancer.

1050

**The Chair:** Thank you, Mr Shapiro, for appearing before the committee this morning. Oh, I'm sorry, Mr Curling. Mr Curling, just before we start your time, we have some very important people in the room this morning and I would like to introduce the grade 8 students from Flamborough Centre school near Hamilton. I hope that you will be enlightened by your tour of the Legislature today and observing the legislative process. I also hope that some of you will be interested in sitting where we are sitting at some time in the future, because indeed in the future some of us will eventually need to be replaced. Thank you for being here.

**Mr Peter Kormos (Welland-Thorold):** Thank you, Ms Marland. In view of the fact that I am conducting the tour, they may well be enlightened. Thank you kindly.



**The Chair:** Thank you to the member for Welland-Thorold for bringing these young people, and we welcome your attendance here today.

**Mr Curling:** With that note, of course, the students are experiencing a change to or a replacement or an addition to the board. Mr Shapiro, I want to welcome you coming before the committee so I could ask you a few questions myself.

First, I want to say, when I read your résumé, I see you come with a tremendous amount of experience. Few people who come to sit on boards and commissions have that experience, and I look forward to you contributing very well to this board.

I just want to clarify one thing. I noticed that you are president of a Saskatchewan company from 1950 to present. I was somewhat confused whether you live here or in Saskatchewan.

**Mr Shapiro:** I live here, and my business is in Saskatchewan.

**Mr Curling:** Okay, so you continue to conduct business there?

**Mr Shapiro:** Yes, I do.

**Mr Curling:** I just wanted to clarify that. One of the most controversial parts of treatment here of any disease is money: Do we have enough money for research? It's always said that the battle of cancer has received a lot of money and other diseases have not. Do you think there's adequate money being received for cancer treatment and cancer research, and if so, do you think that the money comes in a way that somehow the other research has suffered from that aspect?

**Mr Shapiro:** Mr Curling, through the Chair, I think it would be premature for me to answer that question today. In a general way, I can give a glib answer and say there's always need for more money for research, but in effect I would have to have a better handle than I have had an opportunity to get so far on what the research needs really are.

**Mr Curling:** I gather, too, that not only will you be a member but also your name would be put forward to be the chair. Do I understand that properly, that you'd be also the chair?

**Mr Shapiro:** I understand that to be the case as well.

**Mr Curling:** So when we are appointing you today, we are looking at your credentials today as a member and hopefully that the Lieutenant Governor consider you to be the chair. Is that the—

**Mr Shapiro:** That's my understanding.

**Mr Curling:** The issue of mammogram tests has come up especially lately. It is felt that it has not done very well when we thought that this was the thing, that if women have these tests pretty early, they avoid

cancer. Do you have any comment on that, in the direction they are going with these mammogram tests, and should they encourage it more or are they seen to mean that it does not help in any way with cancer at all?

**Mr Shapiro:** Well, I think everyone was surprised to see the results of the recent research that showed that for testing women over the age of 50, the whole mammography program really did not improve the statistics at all. Everyone thought that they would be more productive in that age group. So I really think that this is an area that has to be studied once again to see just whether that is a productive way of spending money or not. I think it would be premature yet, from what I've been able to read, to conclude that the whole mammography screening program should be ditched; I don't think that is yet indicated. But certainly there's reason to question whether the expenditures of money in this area are being sufficiently productive at the moment. It has to be researched further, I would say.

**Mr Curling:** It seems to me that the concern, though, as soon as we feel that we have found a way and where government can fund these activities, I would almost call it—without that many funds having been directed at that area and this is one of the things. AIDS is another area where somehow a lot of money is running into some sort of drugs that we feel will assist in AIDS treatment, and now we're finding out it doesn't really help, but millions of dollars have been spent in this direction.

Would you say that this is somehow a signal to how we approach things, and when we see research that comes up and says we have the answer to cancer, that we look much more carefully at it because we know we have a public pressure that would say we should run in that direction? Do you think this is a cautious way now that we've—

**Mr Shapiro:** I think there's room in everything for healthy scepticism. I know I saw in this morning's paper that they're saying in Saskatchewan now that ECGs are not productive, and yet every time people visit a doctor for a checkup an ECG is on the list. But all I would say at the moment, until I had more information on the mammography screening, is that there's an indication from these studies that there's room for some scepticism about that being the key approach for breast cancer.

**Mr Curling:** I just want to thank you for coming before us, and I feel that the knowledge and experience you have would be a great contribution to this board, and wish you luck and all that goes with it.

**Mr Shapiro:** Thank you, Mr Curling.

**The Chair:** Thank you, Mr Shapiro, for appearing before the committee.

**Mr Shapiro:** Thank you very much for having me.



## GERTRUDE LEVAC

**The Chair:** Our next intended appointment to be reviewed by the committee is Gertrude Levac. Good morning; welcome. Would you like to have a seat, please. Would you like to make some opening comments briefly to the committee, Ms Levac?

**Mrs Gertrude Levac:** Yes, I will. I come from a small community called St Bernadin located in the township of Caledonia in the county of Prescott. I have lived there for the last 35 years on a 400-acre dairy farm, which I now operate with my son since the death of my husband in 1989.

I was born and raised on a farm, also. I attended rural schools and I got my secondary school graduation diploma from the Plantagenet high school. I then attended the University of Ottawa Normal School, what they call now teacher's college, for one year. I taught in rural separate schools of Prescott for five years, before I got married in 1958 and settled on a farm in the township of Caledonia.

After the birth of my fifth child, I quit teaching and in the fall of 1968 the job of clerk-treasurer of the township was offered to me. It was supposed to be a two-hour-a-day job that I could accomplish while caring for the children, but I soon discovered that it was a full-time job, 24 hours a day, seven days a week, because the office was in my home.

This increase in the workload was mostly due because at this period the construction of several municipal drains in the township was started. The township of Caledonia is one of the best farming areas of eastern Ontario, but the land is very flat and needs the drainage. About 75% of the land surface drains into the South Nation River and the balance into the Ottawa River.

## 1100

Another incentive was the fact that at that time, municipalities in our county were eligible for a two-thirds grant for the construction of those drains, so much so that when I retired in December of last year after 24 years of service to the township, I left behind 119 drain construction files and 116 drain maintenance files.

But the township doesn't count that many drains. There are approximately 80 municipal drains. But when the farmers started to install tile drainage in the 1970s, we found out that many of these drains were not deep enough to accommodate the tile drainage and we therefore had to maintain and improve several of them under section 78 of the Drainage Act.

Now, you do not process so many drains without encountering many problems. I appeared before the referee—Judge Clunis at the time—once, and in front of the drainage tribunal at least three times, twice with Mr O'Brien as chairman and a couple of years ago with Mr

Goodal as chairman.

As you know, the clerk of the township acts as the clerk of the tribunal, so I have some notion of how the tribunal functions. When a representative of the Ministry of Agriculture and Food asked me if I'd be interested to serve on the tribunal because there would soon be some vacancies, I hesitated for a while but—

**The Chair:** Excuse me, Ms Levac. Are you going to be very much longer? Please complete it, but they are supposed to be brief opening comments. If you're almost finished, just please complete it.

**Mrs Levac:** Yes. I just wanted to—

**The Chair:** Go ahead and finish it if it's only a couple of minutes. That's fine.

**Mrs Levac:** I decided to make the application and maybe use some of the experience I have acquired over the years, but it is for you, honourable ladies and gentlemen, to judge if I have the necessary qualifications to act as a member of this tribunal. So thank you for listening to me.

**The Chair:** Thank you. Mr McLean.

**Mr McLean:** Thank you, Madam Chair. Well, I can see that you're qualified; I can tell you that. If you've been a municipal clerk, you've been involved.

But I have a couple of questions I want to ask you with regard to the drainage ditches. You're familiar with the ward ditches?

**Mrs Levac:** Yes.

**Mr McLean:** Do you feel that the engineering reports, the stages as set out through the municipal drainage act, are too strict and time-consuming?

**Mrs Levac:** Well, the procedure is time-consuming. It is, especially now that we talk more and more about adding environmental assessments on these projects. So it is time-consuming.

**Mr McLean:** But with your experience, I'm sure, as a clerk, you were—what's the word?—you just couldn't believe the amount of time it would take to have a drainage ditch established under the Drainage Act. I know at times you would say the process is flawed, would you not?

**Mrs Levac:** Well, sure. You have to follow the Drainage Act. Otherwise you might fall into trouble: so many days before the meeting for consideration of report and so on and so forth.

**Mr McLean:** Exactly. My question is, would you be looking at making some recommendations to change the Drainage Act in order that the process could be shortened?

**Mrs Levac:** Yes, I imagine some modifications could be made.

**Mr McLean:** Such as? I'm an ex-warden, a county councillor, and I'm a little bit familiar with it, too. I know I was frustrated at times. But when somebody



new is going on this board that has the experience that you have, I would hope that they would be looking at making some changes. So the question was, do you think it could be shortened, and how?

**Mrs Levac:** It could be, but certain steps have to be timed to the appeal process, if there is an appeal, where they have to wait so many days, and maybe this could be—and I know that in a certain case we had to wait for the Ontario Drainage Tribunal to sit quite a while, so this did delay the project.

**Mr McLean:** Right. Well, the 119, I think you said, construction plans: Is that for farm drainage, for tile?

**Mrs Levac:** That's all for farm drainage, but to accommodate tile drainage. Now, by "construction file" here, I mean petition drains under section 4 and major improvements under section 78, and my maintenance files are under sections 74 and 76.

**Mr McLean:** In the last years that you were a clerk-administrator or clerk, were you using the amount of money that was allotted to you for the farmers?

**Mrs Levac:** We sure did, and I know that last year we didn't have enough money to cover 50% of the drainage superintendent's salary.

**Mr McLean:** What type of farmers were putting in tile drainage—dairy farmers?

**Mrs Levac:** Dairy farmers, mostly, yes, and crop.

**Mr McLean:** I'm surprised, because in our area the farmers have not got enough money to hardly make a living without putting in tile drainage.

**Mrs Levac:** Loans are available through the township.

**Mr McLean:** The farmers are still using them up?

**Mrs Levac:** Not as much as they did, let's say, 10 years ago.

**Mr McLean:** But they're still using the amount of money that you're allotted to lend them.

**Mrs Levac:** Yes, and we were allotted more last year.

**Mr McLean:** I'd like to go back to the municipal drains, because I think that's a major bone of contention with regard to the way that they're established and the way that you have to get approval from your neighbours, and if they're up across the side road, how it's assessed.

I'd like to try to find out, from your point of view and the experience you've had, how you're going to shorten that process. That's a major contention for all municipal councils, and there's got to be some recommendations for that, through the engineering reports.

**Mrs Levac:** Yes, from the time the engineer's report is filed, you have to send out the orders within 30 days. I imagine this could be shortened. Then after the meeting for the consideration of the report, what I find strange there is that within five days you have to send

a copy of the provisional bylaw to the neighbouring participating municipality, but you have 30 days to send it to the owners and the director and the rest of the people. So this could certainly be shortened there too, because within five days you've got to have the bylaw ready for the participating municipality, and why not send it to all the others to whom you have to send the bylaw?

**Mr McLean:** In your 20-some years, how many had been established in that municipality?

**Mrs Levac:** How many drains?

**Mr McLean:** I'm talking about municipal drains.

**Mrs Levac:** Municipal drains: I went back to the office yesterday and I counted 77.

**Mr McLean:** That's a lot.

**Mrs Levac:** It is for a small township. Yes, it is.

**Mr McLean:** I'll pass. How much time did I have left? I must have used pretty near it all, did I?

**The Chair:** Yes, you did almost use all of it.

**Mr George Mammoliti (Yorkview):** I have a question for you. It's more of a case, actually. My constituency office has been going nuts with a particular community, and a decision that North York made a number of years ago is driving a bunch of home owners crazy in my community.

Twenty-five years ago there was a subdivision built, and in the backyard there was a drain installed at the back door of each home. The drain apparently, at that time, was approved to go into a particular sewer. I'm not sure if it was the grey water or if it was another sewer or the sewer drain. There's a grey water sewer system or another one. I'd have to look into that.

A few years ago North York had passed a bylaw that would ask for all of the drains to be covered or redirected into another system at the cost of each home owner. The home owners are having to dish out \$600, \$700 for what I believe is a North York or a municipal expense. Would they be able to appeal to you under this circumstance, and if so, what would be the procedure? Would there be any acts that would forbid them to appeal to the tribunal?

**Mrs Levac:** You mean the owners?

**Mr Mammoliti:** Yes, the owners themselves. They got together.

1110

**Mrs Levac:** I think they have to go to the clerk and file an appeal.

**Mr Mammoliti:** Would this be something the tribunal would look at in terms of making a decision on who's responsible for paying for the drains to be covered or the drains to be rerouted 20 years after it was passed by the municipality?

**Mrs Levac:** It was passed, but do they have an engineer's report there for covering—



**Mr Mammoliti:** Yes.

**Mrs Levac:** Oh, they do. Well, then, if there is an engineer's report, I imagine they had to have the normal procedure, and they can certainly appeal to the tribunal.

**Mr Mammoliti:** So the tribunal would look at something like this?

**Mrs Levac:** I think so.

**Mr Mammoliti:** And after you'd make a decision, would that supersede any of the decisions that perhaps a municipal council would have made?

**Mrs Levac:** Yes, it does, and I think it's written in the act that the tribunal's decision is final.

**Mr Mammoliti:** So if the tribunal decides later that the municipality is responsible in paying for the covers for the drains, then the municipality would have to pay for it?

**Mrs Levac:** I would think so.

**Mr Mammoliti:** Thank you very much. You're going to be busy.

**Mr McLean:** You'd better be clear on that very fact you have to go to your municipal council first to get them to apply.

**Mr Mammoliti:** They did.

**Mr McLean:** Then they will look into it and—

**Mr Mammoliti:** They did already.

**Mrs Levac:** Yes, because I think an appeal can be made under section 50, I guess, by a municipality to the Ontario Drainage Tribunal.

**Mr Waters:** I have a couple of questions. One of the things that I've seen over the last number of years, and it concerns me about maybe the types of drains that we're installing in farmers' fields, is that when we have a wet year the drains are very good, but when we have a dry year we don't have the moisture content any longer in our soil. Indeed, in 1990 and 1991 in south-western Ontario, where there's extensive drainage, we had farmer after farmer in problems because their land was almost a desert, and lo and behold, in a lot of cases they've drained the water off. I'm wondering if indeed there isn't a better way of dealing with this rather than trying to drain the water off, and indeed drain wetlands historically is what we have done to make them workable farm land. Are we doing the best thing?

**Mrs Levac:** The future will tell. I know there is quite a conflict right now between environmentalists and farmers. We need the drainage, but in fact we have no control over dry and wet years. In wet years we need the drainage to take a crop off the land. Some of these questions are very difficult.

**Mr Waters:** I come from the tourist area, and in Muskoka we don't have a lot of drainage going on. There's a bit in the Simcoe side of my riding where we have more farming. I guess I'm curious about how these things physically work. Don't they have some means of

at least shutting down the system and holding the water on the fields, should you be looking at a dry year, or maintaining a level of water within the field system? If all it is is a drain that runs out into a ditch and you don't have any way to maintain some sort of water level, you would—

**Mrs Levac:** I imagine some gadgets could be installed in the drains to do this, but this would be very expensive and add up again to the cost of maintaining the drains.

**Mr Waters:** But isn't it just as expensive if you get a dry year to see all of your labours from the spring and all of that—yes, you've got on the land a month before you should have and you've got your crop in three weeks before it should have been in, and all of those things are wonderful, but come July when the heat hits and your crop burns in the field—

**Mr McLean:** That's the gambling of farming.

**Mrs Levac:** That's right.

**Mr Waters:** Yes, as Mr McLean just said, it's the gambling of farming, but believe me, those farmers didn't come to this Legislature and say: "Bail us out. We have a problem. We need relief from drought."

**Mrs Levac:** I'll just compare 1991, which was dry, with 1992, which was very wet. In 1991, even if it was very dry, the corn crop in my area was good.

**Mr Waters:** Corn loves it.

**Mrs Levac:** Yes, it loves the heat. But last year on my own farm we had to plow over 50 acres of corn which had not ripened.

**Mr Waters:** Was it drained land?

**Mrs Levac:** Yes, it was. My 400-acre farm is all drained.

**Mr Waters:** So in essence the drainage didn't resolve your problem; Mother Nature overrode it.

**Mrs Levac:** It did, I must admit.

**The Chair:** Ms Carter has a question too. I'm just letting you know you have three minutes left; two and a half, actually.

**Mr Waters:** I just have a very quick question, so no preamble or anything. The wetlands policy: Do you see that affecting the Drainage Act?

**Mrs Levac:** I sure do. I had copies of this in the township office last year, and as you know, it will affect Caledonia township because we have the Alfred bog in there and we do have a couple of very important municipal drains crossing this bog. Some contractors have started to take black muck out of the bog, on the outskirts of the bog. They're making good money with this, but it was stopped. I've sent a letter here through a council resolution, and we got a letter back from the Ministry of Natural Resources that we could not give permission for removing any more of this black muck. So slowly I see that, yes.



**Ms Carter:** You've partly covered what I was going to ask. I think your questions brought out that there may be problems with actual drainage of agricultural land from the farmers' point of view, but I wanted to ask you more about how much impact drainage has or can have on what would otherwise be wetlands. I understand that a very large percentage of what used to be wetlands, certainly in southern Ontario, has disappeared already and I wondered if you felt that this is a problem that we need to—

**Mrs Levac:** I think the Alfred bog will be saved because it was owned by individuals, but the Nature Conservancy of Canada has bought what Hardy Farms owned, which is a couple of thousand acres, and I think there are procedures right now for buying more of the Alfred bog, and with them having their hands over it—I hope, anyway. I am a farmer's wife; I am very much for farming, but I am very much also for the conservation of the Alfred bog, because it regulates our water table in the ground and I think it's very important.

I didn't like at all this black muck removal from it, and I hope the government and the Ministry of Natural Resources will not only have a policy but will force the townships to stop this black muck removal, because right now there are no laws to prevent it. They've told me so many times that black muck is not topsoil. You can pass bylaws to prevent the removal of topsoil, but black muck you can't. The gravel or rock removal, that's all legislated, but black muck is not. We tried to pass a bylaw and our solicitor told us that we had no backing to stop it.

**Ms Carter:** So I think you—

**The Chair:** Sorry, we are out of time. Mr Curling.

**Mr Curling:** I have no questions but wish you all the best in your new appointment, should it be endorsed.

**Mrs Levac:** Thank you. If it is endorsed, I will try to do the best I can to serve.

**The Chair:** I'd like to thank you for appearing before the committee this morning, Ms Levac. I think you're very impressive in answering the questions of the committee members this morning. Thank you for being here.

**Ms Harrington:** A point of personal privilege.

**The Chair:** Yes, certainly.

**Ms Harrington:** I just want to comment that I find this candidate extremely well qualified and I'm very pleased that she's a woman.

**Mrs Levac:** Thank you very much. I was one of the first women to work in our region. It was a nice experience.

1120

LYSE CHAMPAGNE

**The Chair:** Our next intended appointment is Ms Champagne. Would you like to come forward, please.

Welcome to the committee this morning, Ms Champagne. Do you have some brief opening comments which you would like to make before the committee members have an opportunity to talk to you?

**Ms Lyse Champagne:** No, not at present.

**The Chair:** You do not?

**Ms Champagne:** No.

**The Chair:** Okay, that's fine. Mr Curling.

**Mr Curling:** Welcome. Thank you for coming before us. I have so many things to ask you that I don't know where to start, but let me start from this point of view. How did you apply for this post?

**Ms Champagne:** I saw an advertisement in the newspaper. The job interested me. I was not aware that you could actually apply for such an appointment, and I applied and went through the process.

**Mr Curling:** Were you quite surprised that you were being asked to come before the committee and being considered for acceptance? Were you quite surprised about that when you were—

**Ms Champagne:** Well, having worked in the government, nothing ever really surprises me.

**Mr Curling:** Did they give you a mandate, an outline of the Assessment Review Board, how it operates? Were you given one, a mandate, an outline of the role of the Assessment Review Board?

**Ms Champagne:** Yes.

**Mr Curling:** You were given that? You were given the mandate that said this is the operation, this is what it does?

**Ms Champagne:** Yes, I was given information.

**Mr Curling:** I'm glad for that. So I presume, having applied, having been given the mandate, the only thing they didn't give you was some of the controversial issues that surround all that. Are you familiar with many of the controversial issues that the Assessment Review Board has to deal with?

**Ms Champagne:** Because I live in downtown Ottawa, I'm very familiar with the whole controversy over market value assessment. Having worked for the urea formaldehyde foam insulation program for three years, I was very aware of the controversy over UFFI as devaluing property.

**Mr Curling:** You know the saying "where angels fear to tread"? I was just wondering if you're familiar with the issues and you said, "Okay, I want to take on these issues." I want to consider you as an angel or the other individual who sees all these issues and, "I'm going to tread right into these issues."

I want to ask your opinion on some of these issues, then. What do you feel about market value assessment?

**Ms Champagne:** I have a personal opinion and I also have a professional opinion.

**Mr Curling:** Do you want to give us both of them?

**Ms Champagne:** Okay. Personally, having lived in the downtown area for 14 years, I did not feel that market value assessment was the way to go and I was against it, although it personally did not affect my own taxes, because my house had been renovated and I was already paying more taxes than all of my neighbours.

But having worked in government for 20 years in a variety of programs, I learned as a public servant to work with the program as it was structured and to deal with the parameters of the program. So in terms of my appointment to this review board, if market assessment is the case in Ottawa and the base year is 1988, that's what you deal with. You're not there to debate the pros and cons of whether it should even be on that basis or not.

**Mr Curling:** Will you be supporting market value? I know you have a professional view and a personal view. I ask you, would you be supporting market value assessment if you're on that board?

**Ms Champagne:** I don't think it's part of the mandate of a board member to be for or against the assessment. It's to adjudicate complaints against the assessment system that's in place.

**Mr Curling:** One of the concerns that the board will have to be dealing with—as you know, members serve, as they say, at the pleasure of the Lieutenant Governor. I'm always trying to find out the pleasure of the Lieutenant Governor anyhow. In other words, they will serve until they may feel that they've had enough or the Lieutenant Governor, whoever that is, feels that person has had enough. The average service, I gathered, on the board is about six years.

What this has done, they said in the past, is not really allow the people to come in, people who reflect the community, people serving on the board who are the reflection of women, minorities, disabled, francophones etc. They feel that a sort of training session should be set up. How do you feel about that? How long do you feel a member—first I'll ask you this one—should serve on a board like that?

**Ms Champagne:** I hadn't really thought about a length of time, but I presume that after a while, you acquire some valuable information and experience and it would be a shame if you only sat on the board for a year or so. I don't personally know how long I would want to serve on this board, not having done any of the work yet.

**Mr Curling:** In other words they call this thing "employment equity," and they feel that not only in jobs themselves, but on the boards and other areas, it must reflect the community, the demographics of that community, and this is not being done. You'd be much for that; in other words, to see that more minorities—minorities are becoming the majorities now,

anyhow—more people who are visible minorities, women, disabled, are serving on the board more.

**Ms Champagne:** I think it's important that on something such as a tax review board, a body like that, people who come before the tax assessment review board see themselves reflected. I think it's very important for the board members to be approachable and to be ordinary citizens people can relate to, rather than feel that they're dealing with a bureaucrat or a politician, which they might have biases against. If you want them to feel they have a fair hearing, they should be able to see a variety.

Any one appellant is only going to see one judge, one board member, so they're not necessarily going to see the diversity at any one time, but if they want to find out, I think it's important that the board reflect a variety of people, not just in terms of race or in terms of language or sex, but in terms of just whether you're linked to appraisals or real estate or in any way sort of familiar with the subject; also someone like myself, who doesn't have the technical background, who can be trained to deal with an issue that affects every citizen who owns property.

**Mr Curling:** One of the things, Ms Champagne, that has hounded this government—and it has not been able to deal with it efficiently—is a common word called "backlog." They have been backlogged in every area. They've been backlogged in the justice system; I call your area one of the justice system. They've been backlogged in human rights, in the courts, all over the place. As a matter of fact, you're not an exemption from hearing—this review board here—that there's a tremendous amount of complaints, a tremendous amount of backlog there. Being that you're a bit familiar with that, do you feel the adequate resources are there to deal with this tremendous backlog that is also at the Assessment Review Board?

**Ms Champagne:** I'm not aware of whether they have sufficient resources or not. I know that they have recruited, I think, 24 new members, but whether these are additional members or all replacement of outgoing members, I'm not aware of.

1130

**Mr Curling:** People are waiting for ever and it's going to get worse too, with even the mayor in Scarborough, Joyce Trimmer, who's going to make some complaints to the Assessment Review Board. Every city will do its own thing and each member, each individual householder, will be doing this. It will increase this backlog, it will increase this burden upon the Assessment Review Board.

I'm just worried that the board, with its great intention—and you, also—to serve, would just be overwhelmed with the government not bringing forth sufficient resources with which to do that. The government keeps changing its mind from one time to the



other on what direction it should go in. That would cause a greater concern for the board itself. But even that board, in making recommendations to the government to get on with decisions—the thing is, as you said, some people have expertise in the sense of appraisal and insurance and all the professional knowledge, but you come also as a citizen, a concerned citizen, who would have that feeling about individuals who feel they're being denied, I call it, justice, that their case is not being heard, that one of the main problems is not the board, so to speak, but the government.

Could I regard you as someone whom, when I hear that things are being pushed, you'd be one on the board who'd be getting the government to make decisions so that they move forward, especially the market value assessment situation? Would you be one of those advocating that the government make up its mind so that you could act efficiently?

**Ms Champagne:** I don't think that's within my role as a board member, to do that.

**Mr Curling:** I would encourage you to make it one of your roles as a board member, to make sure that you get proper direction from government. I would encourage all people who are appointed on boards who come forward here to make sure that you have the resources.

I would plead with you, and if you don't, when you leave here, I will plead with the next one, regardless of what board they are, to make sure government is decisive in the things that it does. Can I then appeal to you? My time is up?

**The Chair:** Yes.

**Mr Curling:** Can I just ask, can I appeal to you to be one of those advocates there?

**The Chair:** Thank you, Mr Curling. Mr McLean.

**Mr McLean:** Welcome to the committee this morning.

You're an intended appointee to the Assessment Review Board. What does that board do?

**Ms Champagne:** Pardon me?

**Mr McLean:** What does the review board do?

**Ms Champagne:** It basically adjudicates on any complaint brought before the board concerning an assessment in a municipality.

**Mr McLean:** Are you familiar with the working group's paper on property tax?

**Ms Champagne:** I'm familiar with the working group in that they have reported but I have not read the document.

**Mr McLean:** You haven't seen the document?

**Ms Champagne:** No.

**Mr McLean:** Will you be looking at it shortly? The working group makes some recommendations. You're familiar with the report but you don't know what's in

the report. Is that right?

**Ms Champagne:** I'm familiar with some of the things that were being discussed when they were having their hearings but I'm not up on what they actually recommended regarding tax assessment on property.

**Mr McLean:** Are you familiar with the amount of appeals that were made in Scarborough this year?

**Ms Champagne:** Not in Scarborough, no, but I realize there's quite a backlog in the Ottawa area, which is where I come from.

**Mr McLean:** How many would there be in the Ottawa area?

**Ms Champagne:** How many complaints? I don't know. I just know it's up considerably in terms of percentage.

**Mr McLean:** Thousands?

**Ms Champagne:** I don't know.

**Mr McLean:** I notice from your résumé that you've done a fair bit of research and that you were a public relations individual, mainly.

**Ms Champagne:** Yes.

**Mr McLean:** You're going to find this position a lot different, are you not?

**Ms Champagne:** Yes.

**Mr McLean:** Why did you apply for this position? Did you apply or were you asked?

**Ms Champagne:** No, I applied, and I felt that it was a part of my background that I wanted to explore, the idea of quasi-tribunal adjudication. I had done a lot of public advocacy work and I've worked for a lobby group, but I've worked mostly on the government side and as a government employee I worked in liaison with lobby groups. I just thought it would be a good opportunity to develop the adjudicative aspect.

**Mr McLean:** Are you familiar with the working group's criticism of the Assessment Review Board, any of those criticisms that it may have?

**Ms Champagne:** No, I'm not.

**Mr McLean:** The part with regard to experience and training, have you been briefed on that? How long is it going to take you before you would be able to attend hearings and make your decisions known with regard to appeals?

**Ms Champagne:** I was briefed last September when I had my interview, but I haven't been briefed since then. But I'm sure I will be briefed on it. I know there was a two-day orientation course that they start with and then you start going to hearings and start accompanying other people at hearings.

**Mr McLean:** You're from Ottawa. Do you believe that you will be doing a lot of the work in Ottawa or across the province? How will that affect you? Has it been indicated to you that you will have to perhaps

travel the province or go wherever is needed?

**Ms Champagne:** Yes, I've been informed of that.

**Mr McLean:** You're well aware of that?

**Ms Champagne:** Yes.

**Mr McLean:** What is the per diem per day on this position? There must be a per diem, is there?

**Ms Champagne:** It's \$34 an hour.

**Mr McLean:** It's \$34 an hour.

**Ms Champagne:** Yes.

**Mr McLean:** How is an hour figured? Is that travelling time or is that working time?

**Ms Champagne:** I don't know.

**Mr McLean:** You don't know? Well, say, this is going to be an interesting tribunal. I have no further questions.

**The Chair:** Thank you, Mr McLean. Mr Mammoliti.

**Mr Mammoliti:** Thank you. Welcome to the committee. Mr Curling had asked you a couple of questions, and I agree with you in terms of your mandate. I think if we had all tribunals starting to lobby governments and tell governments what they should be doing, we'd be in one big mess in this province. The tribunals are to make decisions after they've heard from both parties, and I think you're right in terms of your mandate. If the Liberals ever become the government again, I'll remind Mr Curling of exactly his words today.

**Mr Curling:** Can't hear you.

**The Chair:** Could you speak up a little bit, please. Thank you.

**Mr Mammoliti:** Yes, I'm sorry, Madam Chair. Thank you, by the way.

Market value assessment: My community, North York, is very upset at the fact that our government has decided to send it back to Metro for a number of reasons, as well as Scarborough. Scarborough has lodged literally thousands of appeals. So has North York; so has my community.

I agree with my community and I've made that quite clear. I think that we need to do something around equalization, and market value assessment was the closest thing to a fair package that people in North York and people in Scarborough and people even in other areas outside of Toronto would have seen.

There is a working group that has made some recommendations. A part of those recommendations, of course, is to revamp the property tax system to be a more fair and equitable one. In North York we have ratepayers, home owners, who perhaps own homes and are paying an average of \$3,000, in my opinion—\$3,200—for property taxes a year. Homes in, say, some areas in Toronto which are four or five times bigger than those homes are paying less in property taxes.

These appeals that you're going to probably sit in on and probably going to make judgements on are going to come to you and say: "This is unfair. This is the reason why I want my property taxes reduced." At the same time, it's going to be very difficult, I know, for the board to be able to make decisions on literally thousands of assessments that have been lodged.

If there were a message, and I'm sure that after a few hundred of these hearings you're going to have a message—even though it's not in your mandate, you're going to have a message for the particular minister in terms of resolving this issue—what do you think that message would be to that minister in perhaps what the government should be doing to try and rectify that, even if you don't believe in market value assessment? There must be some sort of a solution. What could my government be doing to perhaps resolve some of these disputes?

**Ms Champagne:** I think it would be up to the chair of the board, having reviewed everything that's happened, to perhaps write some policy suggestions or whatever to the government, but I don't think as a board member—all I can do is report on the cases that I've heard and what the general trend seems to be without necessarily passing judgement on it. Having worked in government for years, I did that all the time.

1140

**Mr Mammoliti:** Do you think it's fair that a home that's perhaps five or six times bigger than a home in another area of the city is paying less in property taxes?

**Ms Champagne:** I don't think size of house is necessarily the only criterion in terms of use of public transportation or whatever. There are so many factors involved that you can't just go by the size of the house or whether you have two and a half bathrooms or any of these things.

**Mr Mammoliti:** How about income? Would that play a role with you in determining it? Somebody who perhaps is a millionaire is paying less in property taxes than somebody who's unemployed.

**Ms Champagne:** No. I can only go by what assessment system is in place and judge according to that. The fairness or unfairness of the base system that I'm working with is not part of my mandate. If it were, you'd have chaos. It's like a judge starting to say, "I know what the law says but I think X."

**Mr Mammoliti:** Doesn't sympathy play a role in this position?

**Ms Champagne:** I think you have to show sympathy to the appellants so that they know they're not being shafted, but you also have to show that you can listen to them fairly and judge according to what is already in place.

**Mr Mammoliti:** Thank you.

**Mr Frankford:** Welcome. I'm also representing a



Scarborough perspective. I don't know if you've seen the clippings that we got in our research package. We have some cuttings from the Toronto Press, some rather colourful language: "Scarborough, Toronto Launch Tax War": "'It's the Genghis Khan school of accounting,' says Toronto councillor"; "Residents Angry Over Tax Fight: Toronto-Scarborough Battle Like a Dime-Store Spy Novel"; Star editorial, "A vicious tax war is raging between the cities of Toronto and Scarborough." Are you prepared to be part of the peacekeeping forces?

**Ms Champagne:** I worked for the UFFI program, the urea formaldehyde foam insulation program, for three years. In North York I faced 750 angry home owners who were playing to the cameras, and I basically had to stand there and explain what the government's program was as fairly and as politely as I could.

I could sympathize with them that they were very angry because they felt the value of their houses was plummeting and they were facing health problems, but the government had established a program and all I could basically inform them on was the government program.

I see this situation as being very similar. The program had its parameters. I couldn't change them. As the secretary to an advisory council of home owner groups, I would relay to the minister what they were saying in terms of their anger and their feeling that the program was inadequate, but all I could do basically was report on what was happening. But in this case I did not have an adjudicating role, so it's a bit different.

**Mr Frankford:** Do you think that this war could be a step towards some equity or do you think it's a tactic to jam things up so that people will throw up their hands and go back to find a better solution?

**Ms Champagne:** I really can't comment on that.

**Mr Marchese:** I was one of those who opposed market value assessment for a variety of good reasons. First of all, my community would be terribly affected in terms of the residents, but I also didn't see it as a fair way to tax people, because it's not based on people's ability to pay. Market value assessment doesn't correct that injustice.

So for a variety of reasons, including the fact that it would affect railway companies, vacant lands, municipal parking authorities and Hydro's right-of-way corridors, all of which would be passed on to us in terms of cost, it was compelling in terms of reasons to oppose it.

But I also understand that the Assessment Review Board is not there to adjudicate on these matters and it would probably be wrong for you to talk about how to deal with that. Presumably your role is to compare one house to the other within a street, and that's how you assess whether people are overassessed or underassessed. That, as I understand it, is what you do. Market value assessment doesn't come into that in terms

of your role.

As a question, I would be interested in knowing what you view as the fundamental guiding principles that you would use to make sure that people get a fair hearing.

**Ms Champagne:** Basically that they get notice of hearing, that they get a chance to state their case, that each party gets a chance to cross-examine the other and that they get a written decision which outlines the reasons why the judgement has been made as it has been made, and that you clearly show that there's no bias.

**Mr Marchese:** Would you say that your communications skills, which are numerous in terms of your curriculum vitae, would be helpful in terms of making decisions, written and oral?

**Ms Champagne:** I think so, because although I've never done any adjudication, when you work in public relations—especially for the government, because basically you're not working for a private company, you're working for a government program—you make judgements all the time: Is this the right approach to take? How is this going to seem to the public? etc. You're always trying to see the impact of the program on people.

**Mr Marchese:** Thanks very much. Good luck.

**The Chair:** That completes the questions from the members of the committee. I'd like to thank you, Ms Champagne, for being before the committee this morning.

**Ms Champagne:** Thank you.

**The Chair:** I would like to ask the committee if there is a motion to approve all of today's appointments.

**Mr Waters:** So moved.

**The Chair:** That motion is moved by Mr Waters. Is there any discussion of that motion?

*Interjection.*

**The Chair:** This is a motion for all of them. If you wish, they can be voted on individually, or if you wish to move an exception to that motion for an individual—

**Mr McLean:** It doesn't matter what I do. Just do as you like. You're going to do it anyway.

**Ms Harrington:** We'd like to know what you would like to do.

**Mr McLean:** I would have liked to have had the vote on the first three and the vote on the last one separate.

**Mr Waters:** If he so wants to amend my motion to that, Mr McLean is perfectly within his rights.

**The Chair:** All right. Then we'll accept an amendment to vote on appointments number one, two and three first, and then vote on the fourth one separately.

All in favour of the appointments of Mr Ripley, Mr Shapiro and Ms Levac? All in favour of those first three

appointments? Opposed?

**Mr Curling:** There's one in there—you see, the way you package it—

**The Chair:** No, I'm not packaging it. I'm taking direction from the committee as to how you would like to vote on these appointments.

**Mr Curling:** Maybe I can't change the motion. I vote against it, because the fact is, Madam Chair, that I know what you said and I'm just observing it. I would have liked to have separated Ripley out of that and vote against it; vote on them separately.

**The Chair:** Recognizing that this is the first committee that I've chaired, I'm trying to take direction from the committee. I think the committee members are perfectly happy to vote on each appointment individually. That gives every member an equal opportunity to vote, and I think it would be better. So would someone like to move the appointment of Mr Ripley?

**Mr Waters:** So moved.

**The Chair:** Moved by Mr Waters. All in favour of the appointment of Mr Ripley? Mr Mammoliti?

**Mr Mammoliti:** Yes.

**The Chair:** Okay. Opposed to that motion? Mr McLean, you have to vote.

*Interjections.*

**The Chair:** I'm taking direction from the clerk, and the clerk advises me that we cannot abstain in committee. We have to vote either in favour or opposed.

**Mr McLean:** What section of the standing orders—I'll vote no and make it easy for you.

**The Chair:** Thank you. It is in the standing orders. All right. We have that. The vote is carried for Mr Ripley's appointment.

Moved by Mr Waters to appoint Mr Shapiro. All in favour of that motion? That is a unanimous vote, all in favour. Thank you.

Moved by Mr Waters, the appointment of Mrs Levac. All in favour of that motion? That motion is unanimous.

Moved by Mr Waters, the appointment of Ms Champagne. All in favour of that appointment? Opposed to that appointment? Thank you. That motion is carried.

**Mr Marchese:** I move adjournment.

**The Chair:** I would just like to say that there will be a brief meeting of the subcommittee. Mr Marchese has moved adjournment of the committee this morning. Thank you.

The committee adjourned at 1151.



## CONTENTS

Wednesday 12 May 1993

<b>Subcommittee report</b> .....	A-15
<b>Appointments review</b> .....	A-15
Melvin Jack Ripley .....	A-15
Jack R. Shapiro .....	A-19
Gertrude Levac .....	A-23
Lyse Champagne .....	A-26

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- Cleary, John C. (Cornwall L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- Grandmaître, Bernard (Ottawa East/-Est L)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Curling, Alvin (Scarborough North/-Nord L) for Mr Grandmaître

### **Also taking part / Autres participants et participantes:**

Kormos, Peter (Welland-Thorold ND)

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service

A-3



A-3

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 19 May 1993

# Journal des débats (Hansard)

Mercredi 19 mai 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Appointments review

Révision des nominations



Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Coat of arms**

A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

### **Table of contents**

Table of contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Les Armoiries**

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 19 May 1993

The committee met at 1033 in committee room 2.

## APPOINTMENTS REVIEW

Consideration of intended appointments.

ARTHUR SMITH

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call this meeting of the standing committee on government agencies to order, and I would like to welcome Mr Smith. Would you like to come forward, please, Mr Smith, just to have a seat. The process is that if you wish to address the committee for a few minutes, you may, and then in rotation we go through the three parties, asking you questions, and we have half an hour to complete that time. So if you have any opening comments that you wish to address to the committee, please feel free to do so.

**Mr Arthur Smith:** Okay. Thank you very much. Well, first off, my name is Art Smith. As a brief introduction, I'm a farmer in Beamsville in Niagara region. I served for 12 years on the Ontario Grape Growers' Marketing Board, six of those as vice-chairman, during which time we negotiated with the governments of Ontario and Canada compensation for grape growers because of free trade and also the findings under GATT.

My final three years I served as chairman. I set out three goals when I started. They were to heal the wounds of a divided industry, to bring the industry together and to stop the downsizing of what was once a flourishing industry and get it back into a growth sector. We accomplished those three things, and I then retired as chairman.

Most recently, I chaired meetings for the farm products marketing commission regarding the apple commission and whether or not it wanted to establish a national farm marketing agency.

**The Chair:** Thank you, Mr Smith. This selection was requested by the government party, so would someone like to start from the government?

**Ms Margaret H. Harrington (Niagara Falls):** You say over the last five years with regard to the wine industry—or shall I say grape and wine industry? Is that better?—

**Mr Smith:** I look at it as one industry.

**Ms Harrington:** —that you have had a complete turnaround. Are those your words?

**Mr Smith:** I think that's fair to say.

**Ms Harrington:** Could you give me an idea of how you accomplished that? Was it an initiative of a group or of the individual actual farmers or of government involvement?

**Mr Smith:** I think if you went back five years in time, the governments of Ontario and Canada, but primarily Ontario, were very frustrated with the grape and wine industry. We had been running years of surplus production and it was an ongoing problem. We entered free trade. The government of Canada in its wisdom basically decided to give the industry away. We weren't smart enough to lie down and play dead. I guess it was through our perseverance as an industry, as a group of individuals, that we carried on and today are in a growth sector.

The varieties of grapes that are grown are different today than they were 10 years ago. We still have some of the same things, but proportionately everything has changed. The emphasis is on quality as opposed to a vin ordinaire, a cheaper product. The consumer is more aware today, due to our efforts, part of which came from the adjustment program and the funds from that program and the millions of dollars allocated to promotion, and I think a big part of it came with the efforts of a few people who said, "Let's get it together." As I said earlier, the government was very frustrated with the industry because it would hear the grape growers' story, it would hear a story from the wine council and then it would hear stories from individual wineries, all conflicting.

One of the things that I set out to do was to establish the goals of an industry. I felt that once we could establish a common goal for that industry and look at all the players—there were the grape growers, the wineries, the government, what does everybody want out of it? Once you establish that, then the numbers kind of fall out and we can all work towards that common goal. That's what happened, and today you see only positive news about the Ontario grape and wine industry in the paper.

**Ms Harrington:** That's for sure. You were saying that you didn't just take the news—this is five years ago. Was it yourself and another few individuals—this is what I'm hearing—who actually created a groundswell of working together that actually promoted this change?

**Mr Smith:** I won't take all the credit, but I went in the office and I said, "This is crap." Excuse my language. I'd been to enough advisory meetings—and there you sit with two sides; you have the processing side and the producers' side—and simply got fed up. I thought: "This is crazy. We've got to work together. Let's stop nickel-and-dime each other to death every time we turn around."



1040

I took it upon myself at that point to contact a few people on the wine side of the industry, people who were not negotiators. It wasn't through lack of respect for the negotiators, but rather the fact that they are negotiators. Everything they say, whether it's in December or February or August, they're always thinking in terms of negotiations in August, so they don't want to make comments in January that somebody can hang them with in August. So I had to get away from that group to a group that wasn't worried about dollars and cents per se, but "Let's talk about the goals of the industry."

I think the very first meeting that we had as a group was in Elmer Buchanan's office. In fact I think it was in this building, upstairs in one of the committee rooms. Rita Burak was there and I acted as a spokesperson for this group. She said: "I can't believe it. I can't believe that you people are in the same room together and that you're letting a grape grower talk for you." It's really a non-issue, but it was of major importance at the same time. That was the effect I was trying to get: "Let's look at this as a team, as one industry."

I have a simple belief that as you go through business, there's enough money out there that if we all take a little piece of it, we'll all survive. But if you have—and you do have in tough times—everybody trying to take from the other guy for survival, then you've got a problem. As long as times are good, there's more money out there and everybody can do that, I suppose.

**Ms Harrington:** What you're saying is you have a fairly good working relationship with this government as well as your local—

**Mr Smith:** I don't look at it as with the government, capital G, but rather with the people in the bureaucracy of things.

**Ms Harrington:** I wanted to turn to your new challenge here, the Ontario Farm Products Marketing Commission. You were mentioning the importance of having clear goals and getting everyone to focus and work towards that. What would you say were one or two of your goals for this commission?

**Mr Smith:** We read in the newspaper and hear on the news how tough things are. Indeed they are tough in agriculture, but I think that we can overcome to a large degree that toughness by working together. I think it's exactly what we did in our industry. I think we were the cutting edge of change. I look at the tender fruit industry, which I am more familiar with than a lot of others, and it's going through exactly the same thing we went through. If you can look at your problems collectively and how do we solve them collectively, then you can do it. I think that's the message that has to get out.

It's not necessarily easy. The very nature of boards

and having processors and producers sit together to go through negotiations is an adversarial role. During that process, over years, you do tend to lose some trust. To make it work, you must establish a trust first. So that's one of the goals.

**The Chair:** Ms Harrington, I think Ms Carter has a question too.

**Ms Harrington:** Okay, I'll yield to my colleagues. Thank you, Mr Smith.

**The Chair:** Ms Carter has two and a half minutes.

**Ms Jenny Carter (Peterborough):** You obviously have victories to your credit, but it seems to me there are more problems imminent, looming up on the horizon. Of course, this marketing commission is part of Canada's system of supply management, and we all know there's the Uruguay round with GATT going on at the moment. Does not this open up a whole new series of threats?

Also, while you're commenting on that, maybe we should be looking at the North American free trade agreement too and what the signing of that might do to the system as it affects Canadian farmers.

**Mr Smith:** Under the GATT issue and article 11 and whether or not it will rescind the import quota powers of supply management boards—I'll stress supply management, because there are many, many different types of marketing boards out there. Supply management are the boards that seem to have a bad image, as it were. I don't know what they'll do with GATT; nobody can answer that question. But I think what you have to look at is, in trying to come to terms with fairness, whether or not we should ease border restrictions, you also have to look at what other supplying countries are doing. My expertise, my experience, lies in grapes and wine, but I can tell you that about four years ago you could buy a case of Italian wine landed in New Jersey for \$4.65 a case. Our wineries were paying more than that for the empty bottles. You tell me where the fairness is, because that's what we need. You have to have a counterbalance, a countermeasure.

I listen to a lot of bureaucrats and members of Parliament, both federally and provincially, who claim that we were the boy scouts of the world and we allowed people to dump all over us and we were afraid to react. I don't think we can be afraid to react. But I think we have to look at what is fair play in all of this, and I don't have the answer for you.

**Ms Carter:** We can fight back.

**Mr Smith:** Absolutely.

**Mr John C. Cleary (Cornwall):** Welcome to the committee, Mr Smith. I guess my first question to you would be—I know it's been touched on briefly here by some of the other members—on some of the priorities that you would have once you become a member of the board, and you touched on two of them already. What

would be the first steps that you would take?

**Mr Smith:** What would be my first steps, sitting on a committee? That's a very good question. There are ongoing problems in every board operation. One of the problems that I think has happened—and I can't be specific—when I look at the agricultural scene today versus what I assume it was like 50 years ago, we had farmers who were more in tune with the marketplace, be they peach growers or whatever.

Today, because we have marketing boards, marketing agencies, which simply means that you have a handful of people, be they elected or staff, who look after the marketing of a crop or commodity, the actual realities of the marketplace are far removed from the producer, and I think it is imperative that producers be more in tune, more in touch, with the reality of the marketplace.

We went through a situation in the winter where the apple marketing agency has, over a number of years, been looking at establishing a national marketing agency. If they got it, part of the hope, at any rate, would have been that they would have had border controls. To me, that wasn't the answer.

When I drove around the country and I looked at some old, standard apple trees and I have been in the supermarket and I've bought some Ontario apples, I could see what the real problem was. To me it was a quality problem. If you're going to compete with high-quality product coming from other parts of the world, then we have to change our thinking here. That's exactly what the wine industry did. It's exactly what the apple industry is going to have to do and it's exactly what peach growers are going to have to do. We have to stop looking at minimum standards and start looking at a better-quality product.

That is what I'm getting at: You've got to get more awareness of the realities of the marketplace to the grower.

1050

**Mr Cleary:** Another question that I have, not naming any particular marketing board: The members tell me that they're not kept properly informed on alternatives and what's going on. Would you like to comment on that?

**Mr Smith:** I can't comment on what other boards do. Running a marketing board, I guess, is no different than any governing body. You elect the people to make decisions on your behalf. Access to that information is available to growers and I believe that holds true for all marketing boards. It certainly was on our board. We did not mail out minutes of every meeting that we had, but if any growers were interested, they could come in and view those minutes.

We had a letter that went out to growers, about probably once a month would be my guess, as to what was going on within the industry, within the marketing

board itself, what we were looking at. So I think that information is there, but a lot of it depends on the grower wanting to access it.

**Mr Cleary:** Another thing that I have to get back to and I ask everybody the same question. It's been bothering me for quite a few years about all the farm products that are coming back due to cross-border shopping. The area I represent—it's just sad. Do you have anything you'd like to comment on that?

**Mr Smith:** I'm not sure if I understand your question.

**Mr Cleary:** It's dairy products, chicken, turkey.

**Mr Smith:** When I look at marketing boards, I look at chicken. I think it's the cheapest meat we can buy and yet it's the one that takes a lot of flak as a marketing board. I remember speaking to a group of people, Rotarians, and one guy got up and talked about going fishing. It cost him \$500 for the weekend and he caught one fish. My comment was: That's an example of an unregulated commodity.

Yes, we have problems with people cross-border shopping but I remember, when I was a kid my dad raised some chickens in one free barn that we had. The price was up and down like a yo-yo. When the price went up, everybody jumped in and then the price went down and you lost your shirt. That's no fun either. Chickens are a six- or seven-week crop and that's what happens with it.

If we wish to stop that, then you have to look at implementations at the border; stronger controls at the border. There is nothing wrong with growers, producers making money. There is absolutely nothing wrong with it at all. This system is set up so that you have retailers on the commission, you have consumers on the commission, you have processors on the commission and there is a system in place whereby if somebody disagrees with the price of a commodity, they can take it to a hearing. It doesn't happen very often because people really have a great deal of difficulty in telling somebody they're not entitled to a decent living.

**Mr Cleary:** One other question I might have for you: What powers should the commission have over the internal affairs of the marketing board?

**Mr Smith:** The marketing boards work under regulations established by the province of Ontario and carried out by the commission itself. The local boards have a responsibility to the growers and there has to be somebody to oversee that or you can and will run into difficulty.

We've had boards go bankrupt in the past, and the commission has stepped in and helped out to make things fluid again. I think they have to have powers over local boards. I have no problem with that at all.

**Mr Cleary:** Do you feel the existing powers are adequate?



**Mr Smith:** From my experience, yes, but I'd have to go into that a lot deeper to properly answer your question. I have no problem with my years and my experiences with the commission.

We approached the commission, I guess it was two or three years ago, which I thought was perhaps unnecessary, but it was to make growers be able to plant Niagara grapes for a US company. We pulled out all these acres of grapes and my job, as chairman at the time, was to find markets and that was one of those markets. But we had to come to Toronto, we put a case forward and it was allowed.

**Mr Cleary:** Do you feel there are any environmental issues facing your board?

**Mr Smith:** Facing my board?

**Mr Cleary:** Yes, that challenge you as a board member.

**Mr Smith:** On the commission?

**Mr Cleary:** Yes.

**Mr Smith:** No. I really think that goes outside the mandate of the marketing commission. I've believed for a number of years that what starts off as a simple concept gets carried out and mushrooms well beyond that. You know, we had growers asking us to do things that were well outside of marketing grapes, and I refused. You don't want to get caught up in something that's well outside.

You have the Ministry of Agriculture and Food. I think that's where environmental issues should be answered and addressed, not through the marketing commission.

**Mr Cleary:** Thank you. Good luck.

**Mr Allan K. McLean (Simcoe East):** Good morning, Mr Smith. Welcome to the committee. Are you in favour of marketing boards?

**Mr Smith:** Yes.

**Mr McLean:** You would hate to see them done away with, I presume.

Your commission has a very powerful job. Of the several marketing boards, one of the main jobs you have is to investigate the cost of producing, processing, pricing and marketing of farm product. Have you been involved in any negotiations between the processor and the farmers or the marketing board with regard to their commodity pricing?

**Mr Smith:** Which boards? Any boards?

**Mr McLean:** Well, the milk marketing board.

**Mr Smith:** No, not with the milk marketing board. The only involvement I have had in any form of negotiations is 12 years on the grape growers' marketing board, where we negotiated directly with processors.

**Mr McLean:** Do you have any idea of how many cases the commission has dealt with over the past year?

Is it several or a few?

**Mr Smith:** Just a few, I would think. My guess would be, under five.

**Mr McLean:** It would be less than five.

Do you want to give me your views with regard to the negotiations between the commodity groups and the processors? You've been involved in the grape and wine processing. What is the indication that I could have with regard to the negotiations that would take place?

I'll tell you why I asked the question. It's because it appears to me that a lot of the processing people hire the top lawyers. They have the upper hand, I think, so to speak, because a lot of our groups are farm-represented, farm-oriented. We may not have the professional people on staff of these large processing—Ault, Beatrice—people. Are we going to win this fight or are we going to lose it to the large processors, to keep the farmers on the farm?

**Mr Smith:** I think it goes back to my initial comments, and that is, what are the goals in industry? If the goal of an industry is to have a viable industry, producer-processor sector, then the numbers have to fall out to allow that.

To answer the other question about, will the farmers lose when the processors bring in the hired guns, during my experience—it was my first year as chairman—I had to go to arbitration. They brought in the hired guns and we didn't have them, and the wineries are still crying over it. Does that answer that one?

You don't need the hired guns. You need a little common sense, the truth and a damned good argument. That works.

**Mr McLean:** The problem I have is that with a lot of the processors, they have everything laid out, wages have increased, everything's increased in their commodity groups. But our farm people, their costs all increase too—

**Mr Smith:** Yes, absolutely.

**Mr McLean:** —and they don't seem to be allowed an increase in their product. It always goes up at the other end, the processing end, but it doesn't go up at the farm end.

**Mr Smith:** That's because the processor has the option of doing business or not. If you're a buyer and the price is too high, you can choose not to buy that week. The farmer doesn't have that option. I feel sorry for farmers, being one myself, but when we got into the business we knew where we stood in the chain of events, which is not to say that we should give up and all go belly up.

1100

But something else has happened in agriculture, and that is our efficiencies. Our efficiencies have improved tremendously. Where we used to plant trees 20 feet by

20 feet, they're now doing it 12 feet by 7 or 8. We're getting our production per acre way up.

The other thing that has happened is that the consumer today is faced with more choice than he's ever been faced with before. We used to sell strawberries in June or early July. You can go into any supermarket right now and buy California berries for \$1 a pint, probably. You can buy kiwi fruit; people didn't even know what that was 10 years ago.

Those are the realities that the grower community has to face. We can't change that; we're not going to turn the clock back. The sad reality is that farming is no different from any other industry. If you do not produce, if you are not efficient, you are going to go under, and trying to save them is wrong.

**Mr McLean:** But we've been saying that for 30 years, "You've got to get more efficient."

**Mr Smith:** And we have.

**Mr McLean:** Farmers have become more efficient.

**Mr Smith:** Far more efficient.

**Mr McLean:** But they still say they've got to be more efficient. Yet they don't get a price increase for four years, the processors get an increase every year, and that bothers me. So you still agree that the farmers should be more efficient?

**Mr Smith:** Yes, I think the farmer has to increase his efficiency. He's no different than any other industry. That's not the answer to the specific problem, but in many cases we are overproducing for our market, and this is the role I believe marketing boards should take. You have some with the ability of supply management that can set quota and manipulate, if you want, the kind of production they think will sell. They come under a great deal of fire for that. We have other boards that don't have those powers that I think should have. My personal experience would be that if you looked at the tender fruit industry, if you looked at the grape industry, if we had had the ability to target and say, "We believe we can handle X amount of produce over the next so many years," we wouldn't have been faced with some of these problems today.

**Mr McLean:** The commission requests minutes of meetings of some of the commodity groups. Are you aware of that being fulfilled, that these groups are providing their minutes to the commission?

**Mr Smith:** The board that I represented sent its minutes to the commission on a continuous basis, all the time.

**Mr McLean:** Of the six boards that are empowered to negotiate prices with processors, have you known any of them that have had to go to arbitration?

**Mr Smith:** Yes.

**Mr McLean:** Which ones?

**Mr Smith:** I suspect they all have, from time to

time. We have twice during my involvement: once when I was chairman, once when I was vice-chairman. Now, we have never gone over the entire spectrum. In the grape industry we were pricing on 17 or 20 different classifications of grapes and we normally came to agreement on all of them. Periodically, we could not come to agreement on one or two of those.

**Mr McLean:** Grant Smith used to be the head of the Ontario Milk Marketing Board. You're not related to Grant, are you?

**Mr Smith:** No, sir.

**Mr McLean:** You probably knew him.

**Mr Smith:** No.

**Mr McLean:** Never knew him? So you're not familiar with the milk marketing board then?

**Mr Smith:** I haven't had a great deal of experience with it, no.

**Mr McLean:** I hope you become familiar, because I'm a dairy farmer.

**The Chair:** Thank you, Mr McLean. Thank you, Mr Smith, for appearing before the committee this morning.

#### SUBCOMMITTEE REPORT

**The Chair:** Members of the committee, before we proceed to our 11 o'clock appointment, could we just have someone move the report of the subcommittee, please? Thank you. Moved by Mr Waters. All in favour of the subcommittee report which you have before you? Carried. Thank you.

#### VANCE LATCHFORD

**The Chair:** Mr Vance Latchford. Welcome, Mr Latchford. In your appearance before the committee this morning you are more than welcome to make a few opening comments. There are 30 minutes split equally between each caucus to ask you questions. Would you like to make some opening comments first?

**Mr Vance Latchford:** No, I have none, thanks.

**The Chair:** All right, thank you. The third party made the request, so we'll start with the third party.

**Mr McLean:** Good morning, Mr Latchford. Why did you apply for this position? Are you involved in the housing authorities at all?

**Mr Latchford:** I've lived in and been involved in public housing since 1979. I became active first in the communities in 1983 in my own community. I've broadened that activity to include involvement on a Metro-wide scale. I've made extensive use of freedom of information legislation and as a result of that have an extensive library of public housing and federal housing policy and consultants' reports and so on. I currently provide support to residents' organizations and other people who have need for that type of assistance.

**Mr McLean:** Do you live in a housing authority residence?



**Mr Latchford:** Yes, I do.

**Mr McLean:** There are a lot of newsletters that have been sent out with regard to the Metropolitan Toronto Housing Authority. Are you familiar with some of those newsletters that go out?

**Mr Latchford:** I'm currently a sitting member of the editorial board of the Homewards newsletter which is a residents' newsletter funded totally and produced by the housing authority.

**Mr McLean:** My understanding is that some of that material has been very detrimental to the private landlords. Is that right? I've just been told that, and I'm curious to know if that is a fact.

**Mr Latchford:** Homewards, as an MTHA-produced publication, does not touch on such matters that I'm aware of. I've been on that committee for about six months and I've not seen anything of the sort.

**Mr McLean:** What is your ambition as far as sitting on the authority is concerned? To increase the numbers of units we have or make the ones we have better? What is your main thrust of what you want to see happen?

**Mr Latchford:** I want to improve the efficiency of the housing authority. I want the housing authority to take serious steps to address both the staff morale problem and the significantly inconsistent manner in which it consults with its tenants and how it carries out those consultations. I think there are some real problems in both those areas.

**Mr McLean:** I'm curious, because I have people come in my office from my community complaining about the housing authority and complaining about some of the conditions they're living in within the housing authority. That's one of your aims, to try and clear up some of those problems?

**Mr Latchford:** I believe we must improve the work environment, improve people's feelings about their work and about themselves and we can then move immediately to perhaps do some delayering, if that's possible, and enhance the efficiency and service delivery. I'm committed to all of those things.

**Mr McLean:** The Metropolitan Toronto Housing Authority housed 761 new tenants from October 1 to December 31, 1992. It seems like a large number of new tenants. Is there a big turnover in some of these residences?

**Mr Latchford:** My understanding is that there is a fair turnover in the communities, yes. Turnover is higher in some communities than others.

**Mr McLean:** Why would that be?

**Mr Latchford:** I think a multitude of reasons. People's life circumstances change. They get married and move away. I left MTHA for a period of about a year and a half and got married and wound up back in

Metro housing about two years ago. I guess some people want to leave the housing because they're not happy with the conditions.

**Mr McLean:** Do you think the tenants have enough say in the operation of the units, the group they're involved in? Do you think the tenants themselves have enough say, or do you think the housing authority has too much say?

**Mr Latchford:** I don't think they have enough say. My sense is that there should be something done to have as many decisions as possible being made by the communities. I'm talking about the local management staff and the tenants getting together and reaching agreement around realistic solutions to jointly defined problems.

**Mr McLean:** In the community you live in, do you have enough people offering their services to sit on that board? Is there an election, or are people just appointed to sit on the housing committee of that residence?

**Mr Latchford:** Some communities have residents' associations or committees; other communities do not. The community I live in is a 34-unit community, and we do not have a committee. We've had some difficulties getting a committee together because of people's frustration with the lack of responsiveness on the part of local staff.

1110

**Mr McLean:** The management of the units, the management committee with regard to the authority: Does it respond when you have a problem within your unit that needs repairs? Are they quick at responding or are they taking weeks and/or months to do the job?

**Mr Latchford:** It depends on the nature of the thing I want done, but I don't see them doing anything special for me. I don't think they respond as quickly as their written documentation would suggest they ought to be responding.

**Mr McLean:** What about security? Is that a problem?

**Mr Latchford:** Security's a problem in a couple of ways. The first way in which security is a problem is that the public housing provider ought not to be in the security business. The limited resources available to it would not allow it to do it effectively.

There's a need to shift initiatives in public housing to putting pressure on properly accountable sources, such as Metropolitan Toronto Police, for example. I think the housing authority providing its own security just serves to isolate the tenants from the community at large, and I don't think that's positive.

**The Chair:** There are four and half minutes left. Do you have any questions, Ms Witmer?

**Mrs Elizabeth Witmer (Waterloo North):** No, I pass.

**The Chair:** All right, we have three speakers for the government.

**Mr George Mammoliti (Yorkview):** Thank you and welcome, Mr Latchford. I know you to be a very hardworking and very caring individual in MTHA. We've known each other for a number of years.

**Mr Mammoliti:** In my previous life as the representative of the workers there, you've had some very constructive things to say to me in terms of staff and staffing. You know that my concern has been for a long time, and it still is, the effectiveness and perhaps the way MTHA carries out its regular routines and the structure that's there to allow those routines to take place; more specifically, maintenance. In my opinion, maintenance is the most important thing, and the way perhaps management deals with that.

Having said that, I also believe and I have believed for a number of years that tenants need to play an active role in the decision-making. I've always felt that the roughly 17 levels and layers of government within Metropolitan Toronto Housing Authority is just a little too much. The levels of management there and the bureaucracy there has built up to a degree that it gets to a point where service isn't being addressed.

The minister, in putting together a package called Planning Together, had the right idea, asking tenants to participate. I'm not too sure that it's worked 100% in terms of getting the right mechanism together to get things started. The first question that I'd ask you is, would you agree that we need more tenant participation in the decision-making?

I've got three questions, Madam Chair, so I'd ask that you bear with me. That's the first one.

**Mr Latchford:** Yes, absolutely.

**Mr Mammoliti:** Yes? Good. Second question: Have we now perhaps identified a problem, the problem that has existed for years, that being that the decision-making and the bureaucracy at that level isn't necessarily helping the tenants and that the best people to help the tenants might be the tenants themselves?

**Mr Latchford:** I think we've yet again identified the problem you just spoke to. I think that the approach is to in fact put something in place that would see tenants helping themselves to put them into a position where they can assert themselves and see themselves as reasonably equal partners in the process.

**Mr Mammoliti:** Would you agree with conversion of public housing into a co-op or non-profit type of a deal? There's \$250 million being spent each year by the Metropolitan Toronto Housing Authority alone.

**Mr Latchford:** I think it's a viable option. My concern, though, is that there are some significant problems with housing stock at this point in Metro Toronto and also with the cost, as you say. I'm wondering whether it might not consume a considerable

amount of time at the expense of the tenants, I think, and the government and the private sector or the public if we were to abandon what is under way now, the planning process.

**Mr Mammoliti:** I'm not suggesting that at all.

**Mr Latchford:** Apart from that, I agree. I think it would make sense to do something like that.

**Mr Mammoliti:** In terms of the current expenditure now—and I'm glad you made the comments about security. Metro Toronto Housing is the third-largest landlord in North America, and we are not only landlords but we've turned into a huge security system, as you say. A large portion of that \$250 million goes to pay for security, security that I think tenants could perhaps do a little bit better if we give them the appropriate training, and it would be a lot cheaper too.

But we've also turned into a huge recreational type of landlord as well. We're providing all sorts of programs for our tenants. I'm not too sure whether we should be doing that. I think we should be doing it to a degree, but I think we're doing it a little bit too much.

Would you not agree that the tenants in MTHA should be asking themselves this question: "Do you want your toilet fixed or do you want to play basketball?" These are the types of questions that I think we need to start asking our tenants in MTHA. Let's face it, today's budget day and we are going to be having to cut somewhere. These are some of the suggestions that I've already made, on areas we should be cutting. Shouldn't tenants have to decide whether they want their toilet fixed or their wall plastered or whether they want to play basketball or hockey?

**Mr Latchford:** Absolutely, but further to that, the comments you've just made raise another concern. That is, is MTHA in the housing business or is it in the "do it all for you-ism" business? The things they are doing only serve to isolate the public housing tenants from the community at large, and that, in my own view and experience, is a disempowering, controlling type of management of the situation, and that's not acceptable.

**Mr Mammoliti:** What are the types of suggestions that you're going to make, sitting on the board, to help improve all the things I've talked about, seeing that we agree on most of them?

**Mr Latchford:** I think we need to address how workers are treated, first of all, because I think we need to improve relations. We need to also define and put into place a process that sees tenants taking part in a meaningful way at the local level, where it really counts. What I'd like to see, actually, is local communities making decisions around their own budgets and around their own priorities and making quarterly reports to the board and basically having the board approve those in conjunction with the MTHA budget committee of tenants, which has just been put into place.



1120

**Mr Robert Frankford (Scarborough East):** Welcome. I know you're a constituent of mine. One of the things one hears in Scarborough frequently in general meetings is that Scarborough has more than its share of public housing, and this is usually coming from a very negative position, implying that it's a problem. Do you have any thoughts about how one can reach out to the community and improve the perception—or the reality—of public housing in a community such as West Hill?

**Mr Latchford:** That's a difficult one. My thinking is that we could start that process by integrating the public housing tenants into the community at large; stop providing services ourselves. Another thing could be to have the tenants more involved themselves in doing things that they need to do rather than having the housing authorities advocating for them. The public housing tenants are not mentally deficient. They became public housing tenants because of some life circumstance, and other than that, they're quite capable of fending for themselves. There may be a component of the public housing tenant population that requires some assistance. Certainly, there are services available outside of the housing authority that can do that.

Someone who appeared before this committee some time ago talked about tenant empowerment and community involvement and things like that, and they spoke to it in terms of having to water and to feed them. My sense is that if you have to water and feed something, then what it is you're watering and feeding doesn't feel that it has any real place or any real control over its own destiny. So I think we need to set something up that allows tenants to be fully participating members of the community. Then I think some of the community attitudes would change.

**Mr Frankford:** Let me just comment on one other thing and perhaps get your reaction. I think there's considerable misunderstanding about the terms that are used. "Public housing," "non-profit housing," "subsidized housing" are all lumped together and there's a feeling that this government has been building OHC housing, which of course is not the case. There has been no OHC housing built since the early 1970s under a previous administration. Do you have any thoughts about how we can improve the understanding of what the different forms of housing imply?

**Mr Latchford:** I don't necessarily have any ideas on that. My thinking is, why are people so interested in what kind of housing somebody lives in? I think the era of building public housing is over. The government doesn't do it any more. Maybe we want to create higher profiles for cooperative-type housing and perhaps non-profit housing.

**Mr Cleary:** You touched earlier on the efficiency of doing this. Just exactly what did you mean there?

**Mr Latchford:** Well, I'll give you an example out of the 1992 estimates. Salary dollars allocated to a 34-unit complex in West Hill were \$56,000, and I think there are opportunities to be more efficient than that. As Mr Mammoliti stated, there are significant opportunities to have tenants doing some of the things for themselves and that could reduce the costs significantly. That's one of the options.

**Mr Cleary:** That would be your goal, to do that?

**Mr Latchford:** I think so, yes.

**Mr Cleary:** I must say that I'm not as familiar with the housing in Toronto as I am with some other areas of the province, but every time I turn on the television, I hear there are problems of safety in the housing units. Would you like to comment on that?

**Mr Latchford:** Yes. I think we need to give the tenants some incentive to protect their own communities. We can do that by shifting power to the local level, with some accountability. I think it's important that the taxpayer be accounted to, but other than that, I think people ought to be able to manage where they live in a way that makes things more unpalatable for those who want to engage in anti-social behaviour.

**Mr Cleary:** Then I understand that you are saying the tenants should have more say in who is housed in the housing authority?

**Mr Latchford:** That is something I would like to see. I have some concerns sometimes about how people speak of people with psychiatric difficulties and so on and so forth, so I think something would need to be done to ensure that those people aren't further isolated and marginalized.

**Mr Cleary:** I understand that you get into the housing authority with a point system. Is that correct?

**Mr Latchford:** That's correct.

**Mr Cleary:** How would you work that, then? How would you have the point system and then choose who you wanted in there?

**Mr Latchford:** The point system as it currently is, its predominant feature I guess is looking at income. I think we not only need to look at income—although perhaps take a bit less of a look at income—but look at people's ability to generate income: Let's look at how people may be able to move on if they want. But the ideal situation, I think, is to try to, ultimately, within a few years down the road, come up with a situation where we don't see large public housing communities as they are currently.

**Mr Cleary:** There's been an argument for and against public housing. I take it that you're in support of it?

**Mr Latchford:** I think it's necessary, but it's not necessarily necessary in its present form. I think the

present form of public housing gives rise to significant concern.

**Mr Cleary:** Is that the only reason you support it?

**Mr Latchford:** Well, I think there are people out there, and I've been one of them, who are not able to financially support themselves. I've got to live someplace. Public housing has been created, horrendous amounts of money have been spent, and it seems to me that to unravel all of that by getting rid of housing stock or significantly changing some of it is perhaps not the route to go.

**Mr Cleary:** Thank you, and good luck.

**The Chair:** Thank you, Mr Latchford, for appearing before the committee this morning.

**Mr Latchford:** Thank you.

**Mr Mammoliti:** On a point of information, if possible, Madam Chair.

**The Chair:** Yes, Mr Mammoliti.

**Mr Mammoliti:** The figures that are shown in this briefing report that we have in front of us tell us that the annual operating budget for MTHA is between \$230 million and \$240 million. The actual budget is \$350 million for MTHA. On another point of information, almost \$12 million of that is currently being spent on security in Metro alone.

**The Chair:** Thank you, Mr Mammoliti.

PETER FAUX

**The Chair:** Mr Peter Faux. Welcome, Mr Faux. If you wish, you may address the committee briefly if you have any opening comments, and then we will rotate through the three parties with questions.

**Dr Peter Faux:** I'd just like to say that my name is Peter Faux. It's actually a British name. I often say no Frenchman would call himself "Faux."

I'm a practising psychiatrist. I've been practising psychiatry in the province of Ontario since 1973. I've applied, as a psychiatrist, to be a member of the review board under the Mental Health Act.

**The Chair:** I appreciate you giving us the correct pronunciation of your name. Do you have any further comments?

**Dr Faux:** No, I don't.

1130

**The Chair:** All right, thank you. Mr Cleary, would you like to start?

**Mr Cleary:** Doctor, what are your thoughts on the Mental Health Act?

**Dr Faux:** I've been practising within the Mental Health Act during my almost 20 years of practice. Personally, I think it's more than adequate. In the area of involuntary committal, I think it provides the psychiatrist assessing a patient with adequate leeway to make an assessment for involuntary committal.

**Mr Cleary:** Do you have any thoughts on the ability to identify dangerous persons or individuals?

**Dr Faux:** Within the act, the person has to be suffering from mental disorder, and then the criteria become dangerousness to self, others or imminent physical impairment. It makes it a behavioural definition that there has to be in evidence a behaviour, which I feel is much better than making it a state of mind. I think that having dangerousness as the criterion is an improvement over simply having had it, in the old days, as a state of mind or a mental disorder.

**Mr Cleary:** Am I correct in saying that things have changed and today patients can refuse treatment?

**Dr Faux:** Patients have rights and treatment is based on informed consent. I prefer to look at it the way that we can treat someone based on informed consent, and where the person is not able to form the informed consent, then the patient would be made incompetent. With informed consent, patients do have the right to refuse treatment.

**Mr McLean:** Welcome to the committee. You're psychiatrist-in-chief at St Joseph's Health Centre?

**Dr Faux:** Yes, I am.

**Mr McLean:** You're on staff, full pay, there?

**Dr Faux:** No, I'm not. I'm really a private psychiatrist. I'm not paid by the hospital.

**Mr McLean:** You're paid by the individual.

**Dr Faux:** OHIP, yes.

**Mr McLean:** Right. Over 20 years the Mental Health Act has been amended on a number of occasions to strengthen the rights of consumers and the patients. The previous questioner asked you the question with regard to patient rights. Do you believe that the patients have enough rights today?

**Dr Faux:** In terms of the Mental Health Act?

**Mr McLean:** Yes.

**Dr Faux:** I feel that the Mental Health Act is a good balance between, say, my professional responsibility to treat, duty to protect and patient rights. It's a balance and I feel that it definitely upholds the patient rights end of that balance.

**Mr McLean:** Do you think that most psychiatrists have the potential to identify dangerous persons adequately? Have they trained in the field enough to be able to spot that dangerous person?

**Dr Faux:** Dangerousness is a very difficult area to assess.

**Mr McLean:** Maybe I'll make it easier for you. Oak Ridge is an institution where they are there on a Lieutenant Governor's warrant. Every once in a while somebody will apply to be released. We have the board that comes to interview those people to find out whether it feels that the dangerous offenders who are there are going to be able to be released. Maybe you could



explain and expound on that.

**Dr Faux:** I never worked at Oak Ridge, but my understanding at Oak Ridge is that many of the people there are under the Criminal Code, that they've been found unfit to stand trial or not guilty by reason of insanity. So the board assessing them would be different than the review board that I'm applying for. The criteria would be the same under both in terms of the assessment of dangerousness, however.

**Mr McLean:** Do you think that our parole board is fulfilling its duties to the utmost with regard to some of the decisions that have been made with regard to sex offenders, mainly, who have been released and perhaps should not have been? Who's advising those people? Are there psychiatrists advising these parole officers? Are they basing it on their own facts that they receive?

**Dr Faux:** I honestly don't know.

**Mr McLean:** So at Kingston where they have the parole board hearings, there's not a psychiatrist on staff there who is advising the parole officers who handle the case for that individual?

**Dr Faux:** I'm sorry, I really don't know.

**Mrs Witmer:** I'd like to go back to the discussion and the questions that Mr McLean asked regarding dangerous persons. What is your understanding of the concept of "dangerous" and the criteria that's set out in the act which the review board must interpret when hearing patients' appeals?

**Dr Faux:** Under the act, "dangerous" applies to danger to oneself—in other words, suicidal behaviour—or danger to others—homicidal behaviour—and both are based on behaviour, both are based on either a verbal or actual physical behaviour, in addition to having a mental disorder.

In the prediction of dangerousness, as in the prediction of suicidal behaviour, past history is always very important, and dangerousness to others, in terms of future dangerousness to others, has become one of the main criteria for predicting future danger, as opposed to dangerousness at the moment, which you'd base on the actual events presented to you.

**Mrs Witmer:** Yet recently there have certainly been instances where we haven't been able to determine the extent of how dangerous an individual is to either himself or to his community. What are your thoughts? And I know Mr McLean asked this. Are psychiatrists able to really identify potentially dangerous persons? How accurate can you be, because I think the public is a little concerned at the present time about what is happening, not only with psychiatrists, but I think, again, we go back to the sexual offenders and paedophiles who are released, some of the people who are stalking their families and what have you. As a psychiatrist, how capable are you of identifying these potentially dangerous people?

**Dr Faux:** Well, we're not. I mean, we are the experts, based on our training, but you are ultimately assessing human nature, which can be unpredictable. I don't think there's anyone who would say that we would have a foolproof test, like you'd have an X-ray or a lab test, to prove, yes, you are dangerous. So it is ultimately based on knowledge and experience, but it comes down to a human decision.

**Mr McLean:** I'd like to go back to the consent to treatment. What is the patient's right with regard to consent to treatment, your knowledge of it?

**Dr Faux:** The patient, to consent to treatment, should have an awareness of the disorder, an awareness of the treatment and know the risks and consequences of receiving or not receiving that treatment.

1140

**Mr McLean:** But what right has the patient to say, "I don't want any treatment"? Do they have that right?

**Dr Faux:** If the patient can fulfil the criteria I just mentioned, then he's in a position to give an informed consent opinion and, yes, then he does have the right to say no.

**Mr McLean:** What numbers would you anticipate there would be who have done that—any idea?—patients whom you have looked at or patients whom you are aware of in some facility who have said, "No, I'm not taking any treatment"; what number I would look at in Oak Ridge who are saying, "No, I don't want any treatment"? It's pretty hard to figure that out but—

**Dr Faux:** I've only practised in general hospitals in Brampton and now in Toronto, and it would, in my experience, be a small percentage. You're looking at maybe 10%. But it would change dramatically with the institution you're in.

**Ms Carter:** I note you were born in Peterborough, Dr Faux, and that is the city I represent.

**Dr Faux:** Oh, I see.

**Ms Carter:** So I'm pleased about that. The function of the review board is to decide on people's competence in various directions, I understand, and part of that, I presume, would be whether they would remain in an institution or whether they would be considered capable of being outpatients or living independently and so on.

I wonder whether the crucial point there is not a theoretical decision about that person but what there is out there in the community and what's actually going to happen to him. For example, I had a letter put under my office door this morning. It was somebody who said her son was a schizophrenic and had been in hospital, had been released, only to find that his apartment had been rented to somebody else. He has nowhere to go and she is beside herself.

So does the question of competency not depend very much on the situation that somebody meets coming out,



and is that something that concerns you?

**Dr Faux:** Very much. The state to which the patients are returning—their domicile, their living conditions—is very crucial, for instance, in whether they could have a relapse and return to the mental health system. I can't agree more with you.

My understanding—although I'm applying for the review board as a consultant, I have yet to sit on the review board—is that in review board hearings, this issue is addressed. Where is the patient living were he to be discharged? With deinstitutionalization etc, really the asylum is no longer available for patients to remain in.

In my experience, if you look at all the systems of mental health community delivery, I think a comprehensive case management system is probably the best, in terms that you'd have one person assigned to that patient—for instance, the individual you mentioned whose apartment has been leased to someone else and whose belongings are either on the doorstep or the pavement—and this person would then be able to track that person, be able to keep in touch, get the person another apartment etc.

**Ms Carter:** So would you feel that by extending maybe the range of facilities available we would be able to keep more people out of psychiatric institutions?

**Dr Faux:** Yes. If we had more community, more case-managed systems, I think we could do a better job with the people who are out there.

**Ms Carter:** Do you think there's any place for these people to work together to give themselves a greater feeling of empowerment and independence, for example, maybe by having a drop-in centre where they can meet each other and discuss their problems and so on? Would you think that was important?

**Dr Faux:** Yes. At St Joe's, we're just on the westerly lip of Parkdale, and there are many centres within the Parkdale area—drop-in centres, community—where you can just drop in for a cup of coffee, maybe a chat, if you're so inclined, and I think that's very important.

**Mr Frankford:** I assume you've had experience with the review board in your professional career.

**Dr Faux:** Yes, I have.

**Mr Frankford:** Would you like to share some experience and also any thoughts about ways you would like to change it?

**Dr Faux:** To be honest, I only recently moved to St Joseph's. In Brampton I had only one patient have a review board hearing. But since I've arrived at St Joseph's I've had several. Really, through my experience with the review board—I'm now applying to be a consultant on it—I found it to be very fair, understanding and to really act in the best interests of the patient. In fact, I've seen them as part of a therapeutic tool that the hospital has in terms of helping people. So I have

no interest or thought on changing the review board or the Mental Health Act, just really upholding it and making it work better by pursuing what's in there.

**Mr Frankford:** Is it your role, either as an individual psychiatrist or as the chief of department, to take the initiative and suggest that people are reviewed?

**Dr Faux:** No, no.

**Mr Frankford:** Who takes the initiative?

**Dr Faux:** It comes directly from the patients, in almost all cases.

**Mr Daniel Waters (Muskoka-Georgian Bay):** Thank you for coming in. You've heard a lot about Oak Ridge. Mr McLean and I are neighbours. One thing, because you may not be aware of it, is that Oak Ridge is a criminal institution, but on the same property there is a mental health facility as well as an addiction facility. I would assume that the people you're dealing with more frequently are the people at the mental health facility than at Oak Ridge.

**Dr Faux:** That's right.

**Mr Waters:** In that respect, I represent the community of Midland. We have a problem, and that is that when people go in there, such as schizophrenics, when they come out they're usually on medication. We have more than, let's say, the provincial average, because these people tend to stay in the community into which they're released. I guess it's the aftercare and the need for someone to be there to make sure that they take their medication, because without it, you and I both know where they end up. The police pick them up, they go through the court system and end up back in, for the most part. I guess I would like your views on this aftercare or extended care or whatever you would like to call that, and the need thereof.

**Dr Faux:** I think, Mr Waters, I can pretty well answer you the same way I was answering Jenny Carter from my home town. I feel personally that we need a comprehensive case management system where you have a case worker assigned to a specific number of patients and that person is ultimately responsible for following these patients; let's say to make sure they get their Depo medication monthly, to make sure there are no problems in their rooming home, to have them attend the community health centres and the physician visits. I really feel that if you don't have someone out there with responsibility to make sure that the system works for these people, they just drop through the cracks in the system.

But unfortunately, case management systems are expensive, they're costly, and I think for that reason we don't see more of them. They definitely have the potential to make the system which is there work, but you need someone following these people through. With people with schizophrenia, often you can't give them a specified appointment. You can have them drop in at



certain times. The case manager, though, often is required to bring them to your office. Since coming to Toronto I've been amazed at some of the landlord and landlady people out there who will act as case managers in a real humanitarian way. But unless there's someone out there doing that service for these people, they just are not capable of following through on appointments.

Often, I don't feel that the system is lacking as much as that there needs to be someone to help these people get through the system and to be benefited by the system.

**Mr Waters:** I know the plight of the people, not only since I've been their representative but for a long time prior to that. My concern is that there seems to be a recognition of the need to fund the hospital for the care, but it's getting the recognition of what I believe are actually the long-term cost savings of being able to have these people in the community, in the support systems that they need within the community. How do we heighten the awareness of that need? Or could you, do you think, as a member of this board, find some way of heightening the awareness of the need and indeed the cost savings of dealing with these people more at the community level so that they're no longer in the hospital in the cycle they're in now?

**Dr Faux:** As a member of the board, I'm really there to act as a consultant, to provide psychiatric input for the Mental Health Act. What you're saying is that we have the association for general hospital psychiatry. Organizations like that often are lobbying for more improvements in community mental health dollars, but I'm not sure how that would fit in with this present appointment.

**The Chair:** Thank you very much, Dr Faux, for your appearance before the committee this morning.

How would the committee like to deal with this morning's appointments? Do you wish to move them individually or are we going to have one motion for all three appointments?

**Mr Waters:** I move one motion for all three.

**The Chair:** Is there agreement to move all three at once? All right. Mr Waters has moved the appointment of Mr Arthur Smith, Mr Vance Latchford and Dr Peter Faux. All in favour of Mr Waters's motion? Opposed, if any?

I have to advise Mr Cleary and Mr McLean that if you do not wish to vote, you have to leave your seat. Are you voting in favour or in opposition? Against. All right. I'd like to thank the members of the committee.

Item 5 on the agenda is the review of the operation of agencies, boards and commissions. We have two outstanding reports, and Mr Pond has some comments on those reports.

**Mr David Pond:** They were supposed to be ready today and they're not, for which I apologize. They'll be ready next time. Mea culpa.

**The Chair:** So we'll deal with those reports at the next meeting.

**Mr Rosario Marchese (Fort York):** Should we have the appropriate motion to reprimand? Just kidding, David.

**The Chair:** There will be a meeting of the subcommittee following this meeting, if those members would stay.

Would someone like to move adjournment? Moved by Mr Marchese. All in favour? Thank you.

The committee adjourned at 1154.





## CONTENTS

Wednesday 19 May 1993

<b>Appointments review</b> .....	A-33
Arthur Smith .....	A-33
Vance Latchford .....	A-37
Peter Faux .....	A-41
<b>Subcommittee report</b> .....	A-37

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
  - Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
  - Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service

A-4



A-4

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 2 June 1993

# Journal des débats (Hansard)

Mercredi 2 juin 1993

## Standing committee on government agencies

Appointments review

Committee business

## Comité permanent des organismes gouvernementaux

Révision des nominations

Travaux de comité

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Coat of arms**

A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

### **Table of contents**

Table of contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Les Armoiries**

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 2 June 1993

The committee met at 1006 in room 228.

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call this meeting to order, the standing committee on government agencies, and I think the first work of the committee this morning is a motion.

**Mr George Mammoliti (Yorkview):** Madam Chair, I've got a motion to move here. I understand there's been some discussion about this and nobody seems to have a problem with it, and that's to move that Mr Curling be substituted on the subcommittee on business to replace Mr Grandmaître.

**The Chair:** Thank you. That motion is necessary, since Mr Curling—

**Mr Mammoliti:** Everybody agrees, right?

**The Chair:** I think everyone agrees. Mr Curling has replaced Mr Grandmaître on the committee, so it makes sense to replace him on the subcommittee as well. All in favour of that motion? That motion is carried.

**Mr Alvin Curling (Scarborough North):** That is the first time the NDP has voted unanimously to have me on anything.

**Mr Mammoliti:** It's probably the first time this has ever happened.

**The Chair:** Would someone like to move the report of the subcommittee dated Wednesday, May 19, which I think you have before you?

**Mr Mammoliti:** I'm sorry. Can you repeat that, Madam Chair?

**The Chair:** Would you like to move—

**Mr Curling:** So moved.

**The Chair:** —the report of the subcommittee on committee business, which is dated May 19? Mr Curling is moving that subcommittee report. It's the report that sets forward our schedule for our next meetings. All in favour of that subcommittee report? That's carried.

## APPOINTMENTS REVIEW

Consideration of intended appointments.

## ROSEMARY BROWN

**The Chair:** I'd like to welcome Ms Rosemary Brown. Would you like to come forward, please, Ms Brown? We welcome you to the committee this morning.

**Ms Rosemary Brown:** Thank you very much.

**The Chair:** We have booked one hour to spend with you. If you wish to address the committee with some remarks at the beginning, you may, and then we will rotate through the three caucuses, which have an opportunity to talk to you about your appointment.

**Ms Brown:** I would like to say a few words just at the very beginning. I'll start out by saying that I was very honoured to have been invited to apply for the position of chief commissioner and that it is my intention to strive to continue in the footsteps of Dan Hill, one of my mentors and the first person to occupy this position, and certainly in the footsteps of other outstanding chief commissioners who have served in this post in the past.

In preparing for this task, I have taken the opportunity to spend some time with past commissioners Raj Anand and Catherine Frazee, as well as the present acting commissioner, Mr Alok Mukherjee, and as well to speak with and receive encouragement from Dr Hill.

Coming as I do from another province, I bring to this job profound respect for the work of the commission. The Ontario Human Rights Commission, Canada's senior human rights body, is perceived in other places as courageous and brave, willing to tackle the tough questions and to deal with the difficult equality issues of the day. In addition, it has a reputation for being relatively free of government interference. These two factors, its courage and its independence, were the ones which attracted me to the position of chief commissioner at this time.

Human rights, as you know, is a relatively young concept and an evolving one. Here in this province, we will be celebrating the 31st anniversary of the code in just 13 days. Indeed, as a society, we are designing a blueprint for human rights with every decision of the boards of inquiry or the courts. It is a concept which separates us from other members of the animal kingdom, because it is one which says that human beings have value and are worthy of dignity and respect regardless of their race, colour, creed, ability, sexual orientation or other consideration, worthy indeed by virtue of the one fact that they are members of the human race.

This is a concept which has driven my every action for many years, because it is one which is so much more difficult to translate into action than it is to articulate. It is a concept which, despite the fact that it is global, bedevils many of the cultures which share this planet with us. Indeed, the decision of the United Nations to schedule an international conference to include all of its member nations for later this month in Vienna has proven to be so problematic that it has been only the skill of the Secretary General, Mr Boutros-Ghali, and the commitment of countries like Canada which have ensured that the conference will indeed take place. Resistance to the conference stems from the fact that the concept of human rights, with its attendant



components of justice, equality and fairness, is still an anathema to some countries in the world today.

Eleanor Roosevelt commented that human rights really begins in small places close to home. Fortunately for us, because of the work of the late prime ministers Lester B. Pearson and John Diefenbaker, Canada is recognized and respected as one of the nations in the world which is in the forefront of striving to protect the rights of all people in the small places where they live, where they work, where they play, where they pray and where they do business.

In this country, with the exception of a very small but vocal minority, the idea that people should have equal rights to the nation's benefits, as well as assume the responsibilities of the nation equally, is unquestioned, which is perhaps the reason why so many governments underestimate the financial cost of ensuring full equality for all of its constituents.

Canada, after all, has been designated by the United Nations as the world's first international nation and Toronto it's most multi-ethnic, multicultural city. This change in the makeup of the country has occurred relatively peacefully and without much fanfare.

Very briefly then and very quickly, let me say that I have three goals for my three years with the commission if my nomination is accepted:

One is to ensure that the commission protects the rights of all residents of the province, as mandated by law, through the continued development of policy aimed at exposing the root causes of prejudice and discrimination, the goal being to transform rather than simply to improve society. Two is to make human rights part of the lifelong learning process of everyone, the raising of consciousness about equity issues, if you will. Three is to use the commission's resources strategically; that is, cognizant of these tough economic times, to exercise skill and strategy in what is done at the commission so as to ensure that the broadest good will result from both its decisions and its actions.

Let me confess that I am prone to setting myself optimistic goals. That way, I am forced to stretch myself and others who work with me to reach beyond our level of capability. Often—no, usually—the goals are not achieved, but there is invariably some success and even surprise at what is achieved.

Let me also disabuse the committee of the belief that I am naïve, in rose-coloured glasses, walking blindly into what the *Globe and Mail* referred to as a pressure cooker. I bring to the job experiences that have allowed me an awareness of the many complexities and contradictions that exist in the fight for equality, wherever that effort is being made. I also bring insights gained from working in a range of public positions over the years.

However, recognizing the need to learn more about the many nuances and complexities of Ontario, as well

as about the general perception and reputation of the commission, I have gone to some pains to speak with residents of Ontario from all walks of life and to peruse the media extensively in search of the local take, if you will, on the commission. As a result, I have learned much of the problems which beset the commission.

I have learned of the almost pathological preoccupation with the backlog, that in fact this has become the mantra which politicians and critics of the commission, and in addition people who use the commission, chant incessantly.

I have learned of the concern that the commission does not sometimes practise what it preaches, that there are accusations of sexism, racism and homophobia within the commission.

I have heard that the commission does not have a large enough budget to do its job, and I've also heard that the commission has too large a budget for the job which it has to do.

I have heard that the commission sometimes strays beyond its mandate, initiating action on controversial issues instead of avoiding them and confining its interests to the traditionally and more widely accepted definitions of what is a human rights issue.

The challenge which awaits me, therefore, as Judge Abella describes it, is to find solidarity in the tangled web of remedial pleas. But until I'm actually working at the commission, I'm not privy to much of the information surrounding the complaints which I have heard and I am therefore unable to either weigh or to judge their validity. But I come to this job with an open mind, a global perspective and an unshakable commitment to human rights, as well as a determination to push the mandate of the commission to its extreme in the pursuit of equality and justice.

Let me, in closing, repeat that I also come to the commission with respect and admiration for its history, that I look forward to working with the other commissioners and the staff as a team, that I accept and intend to be held responsible for the work of the commission, and that I come before you today eager to learn from you of your concerns about the commission, as well as willing to be examined as to my suitability for this formidable yet rewarding task.

Thank you.

**Mr Curling:** I get the honour first to welcome you before this committee, Ms Brown.

I was the individual, as they said, of the party that requested you to come before the committee. I do that with great pride because I am quite familiar with your career and your work in human rights and your work in various committees and communities too. With that, I think that it is one of the needed things, that especially a place like human rights needs someone with that kind of experience itself.

Your opening remarks address some of the concerns that I have. As a rather skilled individual, an understanding individual, I presume you did your homework and you anticipated some of the concerns that we would have.

My other reason for asking you to come before the committee is that I think there is a lot that we can learn from you by the questions we will ask you—and I hope that my colleagues have many questions—and from your responses, and also to share with you.

We are rather concerned, you said, maybe too caught up with this backlog, for the backlog, as you said, translates, and when we sit at our constituency office and an individual, without the statistics, says to us that, "In the last four years I've had a case before the commission and I haven't heard a word from it or I just heard that it's been an intake," that individual life itself and family sometimes is destroyed just because of that incident that happened within their lives.

1020

So I welcome you here and I will not be one of those who will expect the highest from you. We're all human beings and the fact is that without working together, I don't think we can achieve the kinds of goals we want in regard to the human rights commission.

You will hold one of the most important jobs, if not the most important job in Ontario. I think it's a higher job than the Premier of this province. I think you're dealing one to one with individuals whose lives are being destroyed because they've been discriminated against through sex or race or income or what have you. They've been shut out of the system and are not able to participate.

I'm passionately involved with human rights issues, so much that sometimes I'd like to step back so that my emotions do not get in the way. Therefore it is for those reasons I ask that you come, so I can share, maybe rather selfishly, some of those concerns. It is without malice at all but just with a sense of being able to understand the direction which you have initially stated, the direction you will go.

If I may just say this in my opening comment too, the former human rights commissioners I think did an excellent job, regardless of the criticism that we may have given them. I think they've done a wonderful job with this rather testy, I would call, experiment of our province with many, many various ethnic groups coming in here at that time, and we have to deal with their own individual needs because they're human needs themselves.

My concern, then, the first question to you, and you may be familiar with this and I don't expect you to know it all, is that the human rights commission itself, in its office, has been undergoing some rather testy times where even racism was said to exist within the

human rights commission itself. That itself shakes the kind of confidence of the people who bring forth their concerns there.

A committee was set up some time ago, as a matter of fact, named the organizational health effectiveness committee, by the commission I think this last year, recommending the restructuring of the management of the commission. I just wondered, though, if you had an opportunity—I don't think you would—to read that report and the course it has recommended. Do you intend to follow up on that recommendation of the organizational health effectiveness committee?

**Ms Brown:** Thank you very much, first of all, for your very kind comments. I'm going to do what I can to live up to them, but your expectations are very flattering and at the same time very challenging. So I thank you for that.

I also want to comment on—either you're psychic or I'm psychic, because the first thing I have in front of me of course is the OHEC report. In reading it through, I was really impressed by the kinds of goals which they set for themselves in terms of the health effectiveness of the commission and the work that they have been doing.

What I would really like to do, of course, is to sit down with the other commissioners as well as with members of the staff of the commission, first of all, to talk about the best way in which one can use the findings of this study. Even before looking at the recommendations, I think we have to look at the findings of the study and then see after that whether in fact the recommendations flow exactly from the findings in the way that we who work in the commission would want them to do, and where there is a difference, maybe go back to the committee and discuss those, but where there is similarity, then talk about how do we go forward from here.

I'm very impressed with the work that has been done so far. I intend certainly to study this much more in detail before I begin working at the commission if I am confirmed, but I think the idea of looking at the values and purpose and goals of the commission really makes good sense if we are concerned about any kinds of changes at all, and then going from there to look at the management and the structure and the delivery of programs. So I share with you admiration for this report, and certainly it's one that I'm committed to pursuing further.

**Mr Curling:** Yes. The reason I asked that question first is because before we can be believable as a commission outside, we have to practise what we preach. I know when you get into that report in detail and backtrack it to find out that visible minorities are not even in the senior management level—I just wondered if that's just an accident or somehow deliberate. I hope that the report will reflect that and that if there are discrepancies, those would be adjusted.



**Ms Brown:** Of course. As I mentioned very briefly in my opening comments, I don't think there is anything as difficult to actually practise as human rights. I believe that we all respect each other and all believe in the value of each other, but when we actually have to put it into practice, then it tends to come into conflict with a number of different things that we do. That's where the dilemma comes. It's a challenge.

**Mr Curling:** On the wider scale, I'm going to ask another question in regard to the Cornish report. I don't know if I'm psychic, if that's the second one you have on your list.

**Ms Brown:** Yes, I do actually.

**Mr Curling:** Mary Cornish had submitted a report to the minister, and of course as politicians, especially politicians in the opposition, we are rather sceptical about the many reports that do come into governments and sit on shelves. I was waiting very anxiously for the government or the minister herself—

**Mr Rosario Marchese (Fort York):** Don't be so partisan, Alvin.

**Mr Curling:** It's not partisan; it's just being realistic—to comment on the Cornish report, because I think within it there is something that could be looked at. I don't believe in it as much. When I say I don't believe in it, I mean that there are things in it that I would have to see fleshed out better. However, I didn't get any comment from the minister.

I have talked about it with some of the colleagues over there, but I just wondered too if you yourself will be following through on that Cornish report. Being a former politician yourself, I think here's a great opportunity for you now to say, "I will not allow any of these reports gathering any more dust on these shelves." Do you have any plans for that report?

**Ms Brown:** Let me deal with being a former politician first. One of the first things I learned, being both in opposition and in government, was never to make any kinds of promises which I wasn't absolutely convinced that I could deliver on. I'm going to practise that right now and I'm going to start out by saying that in a very selfish way I am grateful that the minister has not taken a stand on the report yet, because it gives us both some flexibility. It means that I would not be moving into a commitment which had already been made and which I have to implement even before I've read it.

Now that I've had an opportunity to read the report, I'm looking forward to discussing the report in some detail, again with the other commissioners, with the staff and with the minister, and I'm hoping that any decision around implementing it will be almost a collegial one, that the minister will permit us at the commission to make some recommendations to her, some suggestions as to how we would like to see the report dealt with.

I want to say that I was very impressed, certainly with the setting up of the study, the mandate which was given to Mary Cornish to review the procedures and around reinforcing the code. I was also very impressed with the premise on which she wrote, which was that we have a new model now in terms of looking at human rights remedies, based not so much on individual complaints as on groups to which people belong, because I think we now understand that prejudice or discrimination is often not directed at the individual but is directed at the group to which the individual belongs. To the extent that the report says, "Let us look at systemic change. Let us look at what happens to the group," I like that. I think that gives us at the commission the kind of support that we need to pursue developing policy in that area.

1030

**Mr Curling:** This is the first time, I presume and admit, that maybe a delay or lack of action on a report is looking for somebody more optimistic, that someone who's competent now will look after it himself, and maybe we have the real individual who will move on this. I'll be looking forward to see, as you move towards implementing or addressing the recommendations or making the recommendations to the minister or whatever direction it goes, that the coroner's report will play an extremely important role in how we see the human rights commission and other systemic discrimination being handled. Therefore, that delay itself, as you said, maybe comes to me as a welcoming strategy. I don't think the minister actually intended to do this. I think it actually just happened like that in action. Now that we have somebody of action, I hope that something will be done about that coroner's report itself.

*Interjection.*

**Mr Curling:** Well, it was never acted upon, so I was quite concerned about that.

I'm going to move to another issue that has been of great concern to me too, and it came up recently. I will just make a comment on it. It is with regard to the pornography in the corner store. The concern that I do have is that it is moving somehow to individuals who run these corner stores. They ask me to play a role somehow that they themselves are not targeted, and these are the Koreans who are running most of the corner store enterprises. I just want to raise that and to say to you it's one of the concerns that I have and I hope that it could be handled in a very sensitive manner, dealing with the pornography itself and somehow not—and this is where the difficulty is, as you rightly said. Transforming some of those ideologies or intentions into reality or practicalities can sometimes be extremely difficult. I feel that somehow the human rights has a very, very important role to play in this. Do you have any comments on that?

**Ms Brown:** I think that's really a classic example of

the kinds of dilemmas that we find. It seems to me that the rights of individuals who run these very small corner stores, especially if we're dealing with people who are immigrants and trying to build a life for themselves in this country, are something that we want to protect, and we want to encourage and support them in every way that we can.

The issue, though, of the impact of material which degrades women on women is something that we're really wrestling with. The pornography issue, as you must know, splits the women's liberation movement right down the centre. It also splits the human rights movement down the centre, because there's the whole question of freedom of speech and there's also the question of what hurts and what degrades me.

I have always found it really problematic or even curious that the same groups or the same people who would never tolerate material which treats black people in this manner, to be sold, to be distributed, to be broadcast, would take material like this if there were animals involved—the entire country would be in an uproar if there were pictures depicting animals being abused in this manner, and they never raise the question of freedom of speech or the rights of people to sell what they want to do in those two instances—somehow think it's okay when the victim happens to be women. I've never been able to reconcile the fact that people will defend my right as a black person not to be degraded in this manner but they will not defend my right as a woman not to be degraded in this manner.

So I personally have a problem with the issue of pornography. I'm interested that this issue is now before a board of inquiry, and I'm waiting, certainly, to hear what the decision is about that.

But for what it's worth, you asked me my personal opinion, and my personal opinion is that as a grandmother of young girls—I have three granddaughters, one six, one seven and one nine—I am not offended by this material; I am hurt by this material. Because for my grandchildren to see this material which depicts women being treated in this way hurts them and certainly hurts their image of themselves and the value which they will place on themselves as human beings.

So I, like you, am waiting for the outcome of this particular issue, but in the meantime, pornography is hate material. It's vicious stuff and it really is destructive to us as a people. I think that what hurts one group of people hurts all of us, and I'm really quite surprised that it's been such a difficult dilemma for us for so long.

The final thing I want to say about it is that the people—the Koreans, the Vietnamese, the white Canadians, whoever it is that has the small grocery stores that sell this stuff—are themselves victims too, because the people who benefit from pornography are not the corner stores that sell the magazines. Pornography is a

billion-dollar industry around the world; it's not the little corner grocery stores. This is why I think that going after systemic stuff is so important, because when we go after it, we have to go after the people who really make the money on this stuff, and it's not the little corner grocery stores.

**Mr Curling:** I couldn't agree with you more about pornography, and I'm glad you made the comment about the individuals or the groups that run the corner stores who have now become almost the victim of these situations. It's important that the human rights commission itself, and I think they are, is sensitive enough to identify and realize this, because they are extremely nervous about it, that if it is illegal, it's supposed to be out of the store. But even at that—I won't deal with that case, but the fact is that the attack now seems to be coming, they feel—and I've not investigated that fully enough—to them as individuals of an ethnic group, and I'm sure that what happens in California or what happens in New York has an impact upon Toronto or Ontario or anywhere else. We know that situation, and I won't—

**Ms Brown:** Can I just suggest that the dilemma we have is that in order to file a complaint, you have to do that where it's occurring. It's unfortunate that if you are unhappy about something that's happening everywhere, you can't—where do you complain if you don't complain to the one place where you see the material? But certainly it shouldn't stop there. We have to have tougher hate literature legislation and we have to go after the systemic root of this whole issue. It can't stop with simply saying the corner grocery stores.

I just want to say one more thing. I don't know whether this is the Toronto experience or not, but certainly in Vancouver what we discovered when we started looking at it in the corner stores was that the magazine distributors said to the corner stores, "You take these magazines or you don't get those." The corner stores themselves were being victimized by the big magazine distributors, so they were caught on the horns of a dilemma, too.

**Mr Curling:** I was told my time is up.

**The Chair:** Yes, your time is up, only for—

**Mr Curling:** Only for this, I hope.

**The Chair:** Only for this. Your time would never be up. Mr McLean.

**Mr Allan K. McLean (Simcoe East):** Thank you, Madam Chair. How much time do we have?

**The Chair:** We were giving everyone 20 minutes.

**Mr McLean:** Thank you. Welcome, Rosemary Brown, to the committee.

**Ms Brown:** Thank you.

**Mr McLean:** Are you still living in Vancouver?

**Ms Brown:** Yes, my home is in Vancouver. My



plan, of course, is to move to Toronto on June 20.

**Mr McLean:** You haven't had an opportunity to tour the offices of the commission?

**Ms Brown:** No. In consultation with the acting commissioner, it was decided that would be inappropriate behaviour on my part, because until this committee makes a decision as to my confirmation, I am a job seeker; the job is not mine.

**Mr McLean:** The committee, for your information, has never turned down one that's come before us, so you'll feel pretty safe.

**Ms Brown:** Well, there have been so many firsts in my life.

**Mr McLean:** I assure you this won't be one.

Are you familiar with the layout of the commission, the 16 offices across the province? Have you had a chance to review the mandate of the commission?

**Ms Brown:** I have had an opportunity to review the mandate of the commission. I have not visited, as I said, any of the 16 offices. I've really tried to behave as appropriately as possible and not make any assumptions about the outcome of this meeting this morning, so as to details about how the commission works, about its budget and this kind of thing, I only know what's in the public domain.

1040

**Mr McLean:** Were you sought out for this position?

**Ms Brown:** I was invited to apply.

**Mr McLean:** Good. Then you won't be aware of the backlog or any of the outstanding cases.

**Ms Brown:** I don't believe there's anyone in the world who is not aware of the backlog. Certainly, going through the newspapers, even reading some of the back issues, it's been brought to my attention very strenuously that this is a major concern of everyone.

**Mr McLean:** You haven't had a chance to read the book, Report on Human Rights Reform, which was put out on June 26 of last year? Did anybody give you the opportunity to review that?

**Ms Brown:** Which book is that? Who is the author?

**Mr McLean:** The task force released its report entitled Achieving Equality: A Report on Human Rights Reform on June 26, 1992.

**Ms Brown:** Is that the Cornish report? Okay.

**Mr McLean:** You never had a chance—

**Ms Brown:** Yes, I have it actually. Yes, I have had an opportunity to go through it very quickly. I dealt with some questions about it raised by Mr Curling.

**Mr McLean:** According to your résumé, you've had some experience in British Columbia. You were opposition critic on human resources. You would be familiar with the layout of a commission such as this.

**Ms Brown:** Yes.

**Mr McLean:** What is your first job going to be, to talk to all the people and find out what it's all about and familiarize yourself, I guess, with the surroundings? I don't know what to ask you this morning, because you're not familiar with the commission and you can't answer any questions that I know of that would pertain to the workings of this commission when you're not familiar with it.

**Ms Brown:** I can certainly talk about what I would like to do at the commission. I touched on it very quickly in my opening comments. Certainly, I agree with you that my first responsibility would be to meet with the acting chief commissioner and the executive director, with the other commissioners and with the staff, and to sit down and talk about the fact that I hope that we will work together as a team to deliver on the mandate of the commission, which of course is to protect the individual rights of every person in this province, and then start to talk about how strategically we can address the question that the commission not only now has a backlog, has had one in the past, but in fact, if it is perceived to be effective, will always have a backlog. Because if the commission works, people are going to use the commission. From what I have seen and heard of the statistics today, to date the use of the commission is increasing, not decreasing.

What I believe we're going to have to try to do is to use all of our skill and our talent to address the issues strategically, because we certainly are not going to be able to ever hire enough people to keep up with the work of the commission. We're going to have to make some strategic decisions about that.

Certainly, one thing that Mr Curling raised very early in his comments which I didn't respond to is that I know, from speaking to the chief commissioner, that the commission is looking at the business of what he refers to as better customer relationships, keeping people informed about precisely what is happening to their complaint.

That, I think, is something that doesn't necessarily call for a lot more money, that can be done almost immediately. Something can be put into place to make sure that happens. Not just the person who's complaining, but to be in a position so that when an elected member phones the commission about a particular client, the commission is in a position to say exactly the status of the complaint at the time, so that the elected member is then in a position to better explain to his or her constituent precisely what is happening.

Also, I would certainly see the commission trying to work much more closely with elected members in terms of the educational or the informational job of what's happening to complaints which come to us. I would like to see, for example, the elected members, when they're approached by a constituent, be in a position to say, "This is how the system works, this is what's happening

and this is what you have heard so far; within a certain period of time you will hear the next thing," so that you are better equipped, as elected representatives, to do your job of representing your constituents.

**Mr McLean:** I'd love, in six months' time, for you to let us know how you're making out and what you've found.

**Ms Brown:** I would love to come back at some time and maybe get you all working even harder.

**Mr McLean:** That's right, and I would love to see in writing what you just told us, proposed how we go about looking at having some input. I welcome you and I wish you every success.

**Ms Brown:** Thank you. I certainly see elected members as being very important participants in the delivery and protection of human rights in the province. I know that the commission would like to work much more closely with you to see that this is done.

**Mr Robert Frankford (Scarborough East):** Welcome. Nice to see you here. I'd like to use this opportunity to get into an issue that I've been involved with over many years, which is breast-feeding.

**Ms Brown:** Breast-feeding?

**Mr Frankford:** Yes.

**Ms Brown:** Oh, yes.

**Mr Frankford:** This may not be obvious initially—

**Ms Brown:** It's been a long time but I'll see what I can remember.

**Mr Daniel Waters (Muskoka-Georgian Bay):** First time I've ever heard Dr Frankford totally speechless.

**The Chair:** Shall we go on?

**Mr Frankford:** Okay. In case people are wondering about the connection to be made, breast-feeding in public; I think people have been harassed or have been told not to do it. You may have come across cases in BC. I think there have been some in the past and I believe there have been some in Ontario, to show that this is not just some little, trivial problem. In Florida, within the last few months, there was legislation specifically permitting breast-feeding in public, and since then I have had people from the infant-feeding advocacy movement come to me and say, "Why don't we do the same here?"

I'd be quite prepared to try to introduce that legislation, but it seems to me that this may not be necessary, that one could be taking a human rights approach. It seems to me being told that breast-feeding in public is not allowed, or if people are asked to leave premises or whatever, I don't think this would ever come to police action or prosecution but I think clearly there is a human rights issue here. Would you like to elaborate on this?

**Ms Brown:** I think it would be really unfortunate if we needed to have legislation to deal with an issue like

this. It seems to me that we should be becoming much more comfortable with the nurturing and rearing of children now that we can accept, if it is done in a discreet manner, that babies need to be breast-fed. We certainly are saying that is a much better and a much more healthy way of raising babies than using formulas or other things. We're encouraging this much more than we did before. As a society, it seems to me that we should be enlightened enough to be able to deal with that without necessarily legislating it.

The only concern I would have about it would be in terms of the health of the child. I don't know if you read yesterday's paper, and you probably don't read Dear Abby either, do you?

**Mr Frankford:** No, not usually.

1050

**Ms Brown:** Okay, but Dear Abby in yesterday's paper had quite a long discussion about whether women should be permitted to breast-feed their babies when they go to the hairdressers. The concern which was raised is that there are so many fumes and chemicals, everyone is smoking and the various things that we use to make our hair look so natural in fact is an unhealthy environment for a baby to be in. That would be my only concern, that this would be done in an environment which would be unhealthy.

But certainly in terms of accepting a perfectly normal process, I would be really unhappy if we would need to have legislation to say that that is permitted.

**Mr Frankford:** But it seems to me if a case arose, and I expect it will sooner or later, that that incident could be brought to the human rights commission.

**Ms Brown:** Yes. It would be an interesting challenge, and I can imagine that the commissioners would certainly examine it with some care and some thought and probably see it as an educational opportunity too to talk about the importance in our society of the care and nurturing of babies.

**Mr Frankford:** Thank you. I appreciate what you've said and I will take it back to my friends in the advocacy movements.

**Ms Brown:** Okay. Thank you.

**Mr Marchese:** Ms Brown, it's a pleasure for all of us to have you here as the prospective chair of the Ontario Human Rights Commission.

**Ms Brown:** Thank you.

**Mr Marchese:** I personally was very impressed with your goals. I find them very comprehensive and at the same time challenging. I think your first and third goals are something that most people are likely to agree with. I suspect you might have some challenges or disagreement with your second, which is the goal of trying to deal with the root causes of discrimination and a goal of transforming and not just improving society. I agree with that, but my suspicion is that some might not agree



with you. But that's a comment rather than a question.

There was a point, and I think you've touched on it, but I'd like you to comment on this again. The task force talked about, "The enforcement model set out in on the Human Rights Code was outdated because it focused on the resolution of individual complains, and not the more serious and entrenched problem of systemic discrimination."

I believe you've said that's what we should be doing. My sense is that we need to work with individual cases, of course, but that we haven't done enough on the other. Do you agree with that, and what would do you about that?

**Ms Brown:** Of course the individual cases were the ones that gave us the basis for saying that what we really need to do is look at what's at the root of this, what is causing this form of discrimination, and try to deal with that rather than continually dealing with individual cases, because when we look at the root, what we find is that we're dealing with groups, discrimination against groups, much more so than discrimination against individuals.

We needed those individual cases and they have been very, very useful. Now it seems to me that if we can deal with the systemic thing, we not only have set a precedent, we've established for future individual cases that this is not acceptable practice or process or behaviour or whatever. Then we can start the business of changing behaviours.

**Mr Marchese:** You see philosophically how we don't disagree, and the challenge of course seems to be so enormous. When I think of the need to deal with the root causes of what causes violence against women and children, and we talk about needing to do prevention as opposed to dealing with the problem once it has arisen, I think of the enormity of the task. Where do we begin?

**Ms Brown:** We begin at the beginning, which is you start out, as we have done in the past, looking at the violence and saying that has to stop. I certainly agree that you have to say, "That has to stop," and then we say, "Now, what are the causes?" As you say, when we get into the causes, we suddenly are looking at the whole issue of race, we are looking at the issue of class, we are looking at the issue of discrimination based on place of origin. I mean, there are all of these other aspects that feed into violence, into this happening, and we realize that we have to deal with that.

We have to deal with protecting the right of people to work, the right of people to live in places where they can afford to live and want to live. We have to be protecting the right of people to promotions, to having opportunities, to having the education that they want, developing the skills that they want, all of these kinds of things. But we still have to have the rule that says, "Thou shalt not hit thy spouse." It's as simple as that.

But we can't stop there, because one of the things that happens, I have discovered, is that when you simply put legislation in place that stops behaviour and you don't attack root cause and attitude, all that happens is that it festers and it erupts somewhere else. I'm convinced that a lot of the sudden eruption, for example, of the Heritage Front and nazism in the school and this kind of thing is based on the fact that we used to think that you can't change human attitude and you can't change the way people think.

But we have to do that now. We now realize that it is not enough to say, "Thou shalt not." We have to now start saying, "These are the reasons why thou shalt not and these are the ways in which you have to rethink the way you live in this world and the way in which you relate to other people."

**Mr Marchese:** Okay. The Cornish report identifies some different way of reorganizing the commission. It talks about how the responsibility for the enforcement of human rights should be divided between three institutions, and it identifies them. I realize, through your comments, that you would want to talk to other board members—

**Ms Brown:** Yes.

**Mr Marchese:** —and reflect on this report yourself, talk to the minister as well perhaps, and other people.

**Ms Brown:** Yes.

**Mr Marchese:** But I'm not sure. You might have a comment on it, because the division seems interesting. The Equality Services Board would "provide claimants with information and advice about pursuing human rights." A Human Rights Ontario would "play a strategic, proactive role to overcome systemic discrimination." An Equality Rights Tribunal would "provide timely access to trained, full-time adjudicators. These adjudicators should be required to conduct hearings as expeditiously as possible," and so on.

It appears to be a very interesting division of tasks. This seems to make sense. Do you have an immediate impression of that?

**Ms Brown:** The notes which I made to myself were that the recommendations were so innovative and sweeping that I would like to discuss and explore them with the other commissioners, with the staff, with Miss Cornish herself, as well as with particular groups, as well as with community groups particularly interested. I would be particularly interested in discussing this also with the minister and with the government in terms of the 88 recommendations.

This is not a Band-Aid recommendation; this is not simply reorganizing the chairs on the deck. This is a major kind of thing that she is suggesting here. I absolutely refuse to even think about it until I've gone through this process of learning how the people in Ontario who would be most directly affected by it

would respond to it.

**Mr Marchese:** That's fine. It's a fair answer.

I wanted to touch on the backlog, because one of the task force's complaints on the backlog is that the delays in processing complaints had seriously undermined the commission's credibility in the community. You made an interesting comment which I didn't note down, but you talked about people's pathological concerns about this, or we "pathologized" the backlog. I find that interesting. Do you want to elaborate on that?

**Ms Brown:** That was an outsider's view, because every, single person to whom I spoke—and I've spoken to a lot of people about the commission—started out with the word "backlog." So immediately it clicked in my mind: pathology. That's it, and that probably is a result of living too many years with a doctor, but that was my particular word for it.

But I certainly agree with the acting chief commissioner that there are different ways of looking at that and that we can do that. We can actually sit down as a team and try to look and think strategically about that and address it, beginning by saying that if the commission is doing its work and if it's effective, there will always be a backlog. At the point at which there are no cases waiting to be dealt with or in the pipeline, then I would become really worried: Why is no one using this commission?

As difficult as it is, and I realize that it's not because of its effectiveness that we presently have the backlog, but it's because we may not have been looking at the cases coming in in a strategic way, I'm not pessimistic about it. I still think that we can address it.

**Mr Marchese:** Thank you very much.

1100

**Ms Jenny Carter (Peterborough):** I'd like to welcome you very warmly to this committee and to this appointment.

**Ms Brown:** Thank you.

**Ms Carter:** Now it seems to me that you have a unique background of experience in this field. You've travelled, you've held all kinds of positions and so on, and you mentioned that Canada has been rated the number one place in which to live. I believe we just lost that position to Japan for whatever reasons.

**Ms Brown:** They keep using different criteria for measuring it. When they measure the status of women, we win again because Japan loses.

**Ms Carter:** There have been other reports where we don't seem to show up so well, where we're criticized for continuing poverty for single parents who do not have everything they need to cope and so on.

**Ms Brown:** And certainly children—

**Ms Carter:** So I was just wondering if you could assess the general situation of human rights in Ontario

and in Canada and see how you think we shape up comparatively at this moment.

**Ms Brown:** I think we talk a good line. I think we articulate really well. I think we know it and we understand it and I have every sympathy with the difficulties about putting it into practice. I know in my own life I have to continually monitor my own behaviour to be sure I'm always practising what I am preaching because it is difficult.

Some of the things that we are asked to do in terms of ensuring equality put us into conflict even with our friends and with our traditional network of supporters. It is difficult. I don't know of anything that's as difficult as really practising equality. To the extent that the government of Ontario is committed to this and is willing to support the commission and stand behind it and help it to do the job that has to be done, then I feel very optimistic about Ontario.

**Ms Carter:** It seemed as though the constitutional debate opened up a lot of cans of worms, and instead of saying yes to that and following through, we seemed to have backed off and almost avoided some of those issues. I found it quite scary what prejudices were opened up when we faced some of those questions.

**Ms Brown:** Yes. Coming, as you know, from another country to this country, because I am an immigrant, even though I've spent most of my life here, I am still amazed at how many different kinds of people live in harmony in this country. Nowhere else in the world does it happen. Despite the flaws that we have, and they are many, we somehow have managed to do really well.

To me, things like the human rights commission, like a commission on employment equity, like a commission on race relations, these other kinds of bodies are part of what makes us work. We have somewhere to go when we have a complaint. We have a commitment from government to listen to that complaint and we have a commitment from government that says to us, "You are a valued human being in this country and you will not be treated as less than that." I believe that these commissions are very vital to the survival of this country as one in which people can live in relative harmony.

There are going to be brushfires. I'm horrified by the incident that occurred in London, for example, where there were people burning a cross and dressed up like the Klan in sheets and stuff. We're always going to have those kinds of brushfires until we've actually been able to do something about root causes and systemic causes. But we're actually committed to do something about that, which is not the case in many other countries.

**Ms Carter:** That's right. We have a good start.

I'd just like to ask you something about budget. You have been a politician, so you're realistic. You know that no aspect of government can grow disproportionate-



ly and have all the funds it would like to have, and you have suggested already that you would never have enough people to deal with the cases that keep coming, so there has to be some kind of limit and probably a backlog as a result.

I understand that the budget of the Ontario Human Rights Commission is approximately, I take it, \$12 million. I have something here that says \$12 billion but I don't believe that.

**Ms Brown:** Oh, I think we could use \$12 billion, actually.

**Ms Carter:** I'm just wondering whether you feel that is a reasonable amount or whether you would feel that more would be required, or most probably you would have to look into that and see what the situation is.

**Ms Brown:** One of the things that I've asked for, and I'm told that it's not yet in the public domain, is the estimates. I haven't actually seen them so I really don't know that. But I have a view on budgets, and that is, I believe that in these really tough economic times, we've passed beyond being able to do more with less, that we're now doing less with less and that we have to address that, in terms of people's expectations, up front and honestly. If we're going to live within our budget, we have to say that this is what we have to do what we have to do, so we cannot do everything that everyone wants to be done and we have to be very straightforward about that.

**Ms Carter:** Another point I would like to raise—

**The Chair:** You are down to your last half-minute.

**Ms Carter:** Okay. You were saying that elected members should become involved. Certainly, we should become knowledgeable and we should be able to advise our constituents what avenues are open to them, but I was just wondering whether there isn't a line there that we shouldn't cross. We can't become involved in a particular case, because then we would be interfering with something that—

**Ms Brown:** No, no, I was thinking and speaking of you primarily as educators.

**Ms Carter:** Right. Yes, there's no problem with that, obviously.

**Ms Brown:** No, no, no. I'm a firm believer in arm's length.

**Ms Carter:** Thank you.

**The Chair:** Thank you, Ms Brown, for appearing before the committee this morning.

**Ms Brown:** Thank you very much.

ARNOLD MINORS

**The Chair:** Our next appointment is Mr Arnold Minors. Is Mr Minors in the room? Good morning, Mr Minors.

**Mr Arnold Minors:** Good morning, Ms Marland, is

it?

**The Chair:** Yes. Welcome to the committee. If you wish, you may make some opening brief comments, and then we will rotate through the three caucus's members to ask you questions.

**Mr Minors:** Thank you for the opportunity to make comments. I am appearing here at your request and I am happy to answer any questions that will help you in your deliberations to figure out about my competence to be a member of the police services board. So I'm happy to begin with your questions.

**The Chair:** All right. Thank you, Mr Minors. We will start with the third party.

**Mr Robert W. Runciman (Leeds-Grenville):** Welcome to the committee, Mr Minors. I have just a few questions in respect to how you were approached for this appointment. I assume someone in the Premier's office contacted you, or someone in the public appointments secretariat?

**Mr Minors:** That's right. I was approached by someone in the appointments secretariat.

**Mr Runciman:** You hadn't indicated an interest to anyone and they contacted you?

**Mr Minors:** I had not done that.

**Mr Runciman:** When you were contacted about this appointment, was there any discussion about your views in respect to policing in Ontario or what the government's views are in respect to policing, what it would like to see? Was there any talk about the government's agenda and how it lined up against your own feelings?

**Mr Minors:** There has been no talk about the government's agenda. My hunch is that in their discussions about me, people have been very clear that I am quite independent and so they probably thought that wasn't even a useful thing to talk about. But in any case that wasn't brought up, nor was my opinion about policing asked for.

**Mr Runciman:** Your opinion about what? Pardon me?

**Mr Minors:** About policing, which was your first question, I believe.

1110

**Mr Runciman:** Are you independent in a political sense as well? Have you ever had any ties to a political party?

**Mr Minors:** I am independent politically, yes.

**Mr Runciman:** And that's always been your history.

**Mr Minors:** That's always been my history.

**Mr Runciman:** I guess if the government didn't ask you, I'll ask you about your views about policing, especially the Metro police, since it's going to be your responsibility. One of the advisers to the government—I'm paraphrasing; I can't recall the exact quote of Mr Lennox Farrell, who advises the government on race

relations—made some comments about the Metro police force being, I think, white shock troops in terms of the visible minorities in Metro Toronto. I just wondered how you feel about the Metro police and any general observations you might have, especially in terms of the relationship of the policing community and their relationships with visible minorities in Metro.

**Mr Minors:** My belief about policing is that what we need in this society from police is responsiveness to the community. The Metro Toronto police have released a report called *Beyond 2000*, which talks about community policing. I would extend that to mean community control of policing. When people talk about police and visible minorities or police and race relations, I would work to in fact turn that around to an issue of competent policing, that what police need to know how to do is to work competently with each and every member of the community that they are hired and are bound to protect and to serve, so that if they don't have knowledge about what that means, I think the board should make sure there is sufficient training to make sure they understand that and can do that well.

So often, the way in which I hear police and visible minorities or police and race relations, it sounds like public relations as opposed to police being effective. To the extent that it means effective policing, I am quite concerned about making sure that police and visible minorities and others follow through. To the extent that it's about public relations, I have no interest in that.

**Mr Runciman:** I appreciate your objectives and what you'd like to see happen, but do you have any views on the current situation? Do you think specifically the visible minorities in Metro are in any way, shape or form being badly treated, mistreated, not getting a fair shake from a sizeable chunk of Metro officers? Do you have any views right now, concerns, as you enter this role?

**Mr Minors:** It is my experience, personally and as a consultant, as a member of the Ontario community, as a citizen, and as a black person who is a member of the community, that the police, in the way in which they deal with various communities, are a part of the set of organizations that exist in this society, just as education, just as justice. It is no accident that there have been many reports about the way in which minorities are not well served in the education system, they're not well served in the criminal justice system, they're not well served in other systems. It is not surprising that they talk about not being well served by the Toronto police.

I'm not surprised at that observation and I think that in part it's to do with an understanding of dealing with various communities. It is in part a reflection of the fact, I believe, that employment equity has not been successful with the police, as it hasn't been with other organizations and that there needs to be a wider representation at all levels of the police by various members

of the community so that this kind of knowledge and skill and experience and perspective is built automatically into the organization.

**Mr Runciman:** What you're generally saying, in your explaining why you feel this way, I guess, is that you don't think—specifically I think you mention—the black community is well served by Metro police authorities, and you mentioned the representation within the ranks of various minority groups and so on. I just wonder about the general view with which you go into this with in terms of the various communities not being well served. Have you or family members or close friends had personal experiences that would sort of cement those opinions and firm them up that make you feel this way?

**Mr Minors:** I remember—and this is a metaphor for me—one of my friends in a group of people saying—she has three teenage sons and she and her husband are both black—that until all three sons are at home she cannot sleep, until she hears that door slam behind the third one coming in and going to bed. She is very worried about that, and that story I have heard a number of times.

**Mr Runciman:** I've heard that.

**Mr Minors:** To the extent that story exists, it is a reality for those people who describe those stories, and to the extent that police behaviour based on whatever—I think it's largely a lack of knowledge and experience.

I can talk about a program that I was part of designing called "Policing in a multiracial society; to serve and protect" that is being mandated to go throughout the province for all police forces. To the extent that the reasons for it are about—I think a lot of it is—lack of knowledge and experience, we will continue to have those kinds of stories and they are realities for people. To the extent that we don't hear or at least I don't hear similar stories, for example, from others, I say that is something that influences my perspective.

**Mr Runciman:** Okay. I guess that was a long answer to a question I asked in respect to your own personal experiences or family experiences. You're talking about these kinds of stories circulating. I've heard them too. I was talking about why you have this view and I guess you're not basing it on any personal experience that you've had or any family member or close friend has had. This is the sort of thing we've all read about in the media or heard in coffee shop discussions. There's no real experience on which to base the view you've expressed here today.

I was just wondering, another question—do I have some more time, Chair?

**The Chair:** You have one minute.

**Mr Runciman:** Just another question in respect to your discussion with the Premier: Again, we have very limited time. I know Ms Eng, the current chair, has



indicted she's not going to be looking for another reappointment by the current government and her term will expire, I think, next year; I'm not sure about that. But was there any discussion about the possibility of your eventually succeeding Ms Eng as the chair of the Metro Police Services Board?

**Mr Minors:** "Discussion" would be dignifying it by a large amount. There was a mention that I may be considered as chair at some point. I have not discussed that because I have no idea what that would mean. I would need to be at the board for me to even want to engage in that conversation.

**Mr Runciman:** All right. I suspected that sort of a conversation had occurred.

**Mr Mammoliti:** Welcome, sir, to the committee.

**Mr Minors:** Thank you.

**Mr Mammoliti:** You're going to be very busy, I would imagine, in the next little while.

Mr Runciman brought up the point about relationships, and your relationship on the board with others is going to be a big one. Can you give me an indication of what type of relationship you see yourself having with perhaps the police department itself, and the police and the special investigations unit, and of course the SIU with the board itself? What type of relationship would exist among those groups and yourself?

1120

**Mr Minors:** There are of course any number of people who have an impact on what the police do. My personal style is to identify who all those people are and to find out ways in which I can build those perspectives into what I know about, what I do, what I say.

Specifically with regard to the special investigations unit, I would expect to talk with those as I would talk with the other members of the police services board, as I would attempt to speak not only with the chief and the senior officers, but with, over time, a sample of people at various levels of the force, just to get an understanding of what it is that they do.

**Mr Mammoliti:** Communication is important. In terms of your experience with race relations and being an expert on race relations, I would ask as well what role you see yourself playing on the board with this experience. Do you see a role and, if so, what is it?

**Mr Minors:** What I talk more about is anti-racism rather than race relations or racism and systemic racism. The role that I would bring I think in my knowledge about this area is to help people to understand from that experience how systemic racism plays out in employment, in the ways in which police may behave with members of various communities and what kinds of specific changes or additions or subtractions may need to be made in order to have the police do what I call competent policing. The notion for me is, as I've said before, about competent policing.

**Mr Mammoliti:** In terms of police training, there has been some discussion in the past and even some criticism in terms of how police are being trained at present and wanting that to improve. I can remember a few people coming into my constituency office and talking about this particular issue. Where do you see the board playing a role in terms of improving the training, if it needs to be improved? What's your opinion on police training? Where should we be going and where does the board play a role in that?

**Mr Minors:** Probably, in terms of the board, I think the board needs to be very clear about what the priorities are, the principles are, that need to govern the quality of training, and that the training itself is then reflected in what the training content is and who delivers it. What I would do is to work very hard in talking about and working through with the members of the board what are the priorities, what are the principles that govern those priorities, how should training programs be designed to get results, as opposed to having people go through a number of training programs for the sake of going through training programs. I'm much more interested in results than I am in process.

**Mr Mammoliti:** Good luck, Mr Minors.

**Mr Minors:** Thank you.

**The Chair:** Dr Frankford, and Mr Marchese and Ms Harrington after you. You have about six minutes.

**Mr Frankford:** Okay, I'll ask them quickly. Could you give some thought to crime statistics? This is often put in terms of race and crime, but I think there are obviously many more things that can be examined if one is looking at the individuals, their socioeconomic status, sex, whatever. Do you think we should be trying to avoid the whole thing or should we be actually concentrating on refining what we're doing?

**Mr Minors:** I'm quite clear, I think, that statistics on the basis of gender or race or even class, if we could figure out a way to do it in terms of victims, is a very useful thing to do. In terms of who alleged criminals are, I am much less clear about it, in part because of my knowledge about statistics and how they can be used. We're clear about victims when that happens. If we lived in a society where every person who committed a crime was in fact arrested, if every person who was guilty of a crime was in fact convicted, then we could use the data about arrests and convictions.

In the case of robberies, for example, only about a third of the ones that occur are reported to the police, and of those, only about 30 get, as the police call it, cleared. So we're really talking about a very small percentage, and how we can extrapolate from that very tiny percentage to any kind of population is beyond me. The size of the error is bigger than the size of the measure. So I would not encourage that. I would be against it.

**Mr Marchese:** Mr Runciman had asked a very interesting question, one that I thought was paradoxical in many ways, but I also thought it was an entrapment kind of question, because he asked, "Did you have a personal experience?" and then you talked of another person's experience. I felt that if you had answered that you had a personal experience, you would have been disqualified because you would be too close to it and therefore too angry at the police, and that by not having that experience and talking about other people's experiences, that you weren't qualified because you were only talking about other people's experiences.

Do you think a personal experience would have disqualified you and do you believe having knowledge of how the black community may be treated disqualifies you as well?

**Mr Minors:** Absolutely not. In fact my belief is that each of us has all kinds of experiences with organizations, and as a consultant, what I do is to treat an experience as data to be used to follow up by: "What does this mean? How do we use it? What does it mean for policing?" If, for example, I get a ticket on my car, I wonder about who else gets a ticket. If I get stopped for speeding, I wonder about who else gets stopped for speeding. So I think that that perspective would not—in fact I would say that maybe having experiences with the police should be a requirement.

**Ms Margaret H. Harrington (Niagara Falls):** Very briefly—and thank you very much for coming—one of the many challenges that every organization faces, its leadership faces, is how to manage in these difficult economic circumstances. Do you envisage any difference that should be happening in the future as to how we manage services?

**Mr Minors:** We have half a billion dollars that goes from public funds to the police, and it's pretty clear that it needs to be used well. One of the things that I would hope to bring is some thinking based on my consulting experience of what are the priority areas for the community and the communities and how we want to look at that in terms of results for policing in Metropolitan Toronto.

So often what we do is to spend money on activities without much thought about how those activities contribute to results that we want, and I think that we need in the budget, especially in these times, a much tougher look at what it is we want to do and how we want to use those dollars to make that happen.

**Ms Harrington:** So you're willing to look at a broader view of how efficiencies can be found and how to get the results that the community needs and wants.

**Mr Minors:** Both effectiveness and efficiency. I think that broader look has always been important. I think it's particularly important today.

**Ms Harrington:** Thank you.

**The Chair:** You have some time left.

**Ms Harrington:** Really?

**The Chair:** Yes, you have two minutes.

**Ms Harrington:** Okay, go ahead.

**Mr Marchese:** Let me ask a question on the whole issue of accountability for the individual board members, because there are no defined standards for conduct for the members. So in some ways there's no protection for the members, and at the same time there's no accountability to the public in terms of what their role really is, or could be or should be, for that matter. Do you think there should be some standard that is defined somewhere, both in terms of their own protection and in terms of how they might become accountable to the general public?

**Mr Minors:** Accountable to the general public: Probably the issue for me is, to the extent that we can build in community control and be clear about what that means, that may start to give us some ideas about what standards of accountability mean for the members of the board.

1130

In terms of protection of the board, maybe that does the same kind of thing. If we're clearer about what we expect from the board, then we can be clearer about what accountability means. I think that what we have over time developed is a set of behaviours that are a kind of concretion of all the historical experiences we've had.

Maybe this is as good a time as any to look at, aside from the Police Services Act, to build on that and to say: "What is this board really about? What do we really want it to do? What does accountability really mean and how can we make that public so that the public understands what the board's supposed to do for policing?" Maybe the same thing would be true for politicians as well, aside from the voting every so often that happens.

**Mr Curling:** Mr Minors, let me welcome you too to this committee. I'm really not concerned about how you got here, because basically your qualifications actually speak for themselves. Again, how people come to this committee is always a matter of how this committee is organized.

I'm going to be deliberate about this. I hope that one day we will have people before committee or commission and that as we see them we don't think that we have to ask them a race relations question, because police are far beyond racism issues. It's about policing for all our citizens. It is rather interesting; only Mrs Harrington had not raised a question about you and how you see racism.

My last comment about that is that when I hear about "visible minorities," not like my other colleagues in the Conservatives, who see that visible minority equals



blacks as it is there, "visible minority" is about all other people, minorities within our community.

Let me ask you, though, because one of the things I am concerned about very much with the police here is the creation when they have the SIU, the special investigations unit, do you have any comment about how it should operate, what you think about it?

**Mr Minors:** Of course, as I get on the board and get more information about the police services board and the police department and the special investigations unit and all the other organizations that look at policing, the special investigations unit should in fact exist. I believe that there needs to be a competent, independent body that looks at incidents.

No matter how well intentioned people are in an organization, there will inevitably arise circumstances that need to be looked at. In a case for police, who have this enormous job to do that involves public safety, there are all those attitudes in society that are evoked by police fear, because of associations with crime and so on. We need to have some group of people who are independent of the police to be able to look at actions the public finds unacceptable, inappropriate, reprehensible, wrong, whatever, and to examine those and have the public know that when that examination happens—and I think it should happen reasonably quickly so that people can have a good process, so that when people hear about the results of that, they can feel confident that whatever complaint has been brought forward has been responded to, dealt with well, so that they also feel protected.

**Mr Curling:** This is probably a difficult question for you and maybe quite unfair in a way. When Osler, who was then the head of the SIU at one stage, stated that the Police Services Act poses a basic conflict for police officers, do you believe that the Police Services Act does that?

**Mr Minors:** You're right, I'm not competent to answer that now. I'd be happy to once I have some more experience with it. If you can tell me the context in which he said it, I might be able to respond.

**Mr Curling:** That may be so too, but the fact is, not even knowing the context in which he said it, that's quite a statement. I would say to you, as serving on the commission, I think, take a very close look at that, whether or not the act itself poses a basic conflict to police officers.

**Mr Minors:** The one thing I'd add quickly is that if the act under which people are supposed to operate means they can't do their job, which is what I'm hearing about this basic conflict—

**Mr Curling:** I think that is, in some respects, what he had said and I can't understand it.

**Mr Minors:** --then to the extent that's true, I mean, obviously the act would need to be looked at but I can't

comment specifically.

**Mr Curling:** Accountability is one of the most important things, especially in policing, and somehow there is some resistance all along about accountability in the police force. I think they're moving a bit toward that accountability situation, and I look forward to the improvement of the police force.

Use of force is one of the hottest issues around. Do you have any comment about the use of force and police officers?

**Mr Minors:** Clearly there are some instances in which force by an organization such as the police has to be used. Equally clearly, people who use that must be trained well. I mean, people talk about use of force and they say, for example, that the police should have bigger weapons and all those kinds of things.

My concern would be, having trained people a while ago in how to use weapons, making sure that police officers can use the weapons they have and use them well, that they know in their guts and in their heads and in their hands a variety of ways of dealing with situations so that the use of force is not always seen or is not in any way seen as the first option.

I'm not suggesting that is what's true for all police officers, but clearly the issue of training is a fundamental one of knowing when and how to use force so that if there is an exception it has to be a very, very unusual exception. It should certainly not be something that is an ongoing discussion and a worry, whatever, because then I'm worried about competence.

**Mr Curling:** If there's a word, Mr Minors, within the police force it's the word "training." It comes up more often than any other word I know, which is quite shocking to me because they are more or less a quasi-military force—sometimes some hold on to it as almost a traditional military force, and when people hear that they need more training, it's quite surprising that they do have police officers who are enforcing the law and haven't got any training or lack training in many aspects of things. I'm not only talking about the use of force of training but talking about training in all other aspects of society and understanding society. Maybe you have not had an opportunity to look at the budget. Do you feel there is adequate training being done or adequate funds being given so that the necessary training can be done?

**Mr Minors:** I don't know the question about whether there's adequate funding. Certainly in my experience, in many organizations the question is not so much about adequate funding but what is done with the funding they have, to see if it gets the results they want to obtain. Then and only then, if it looks like there need to be more dollars, you look at that. But so often what gets done with training dollars is so loosely tied to results that almost any argument can be made for increasing the dollars. I think we need to look much

more carefully at that.

**Mr Curling:** Thank you very much.

**The Chair:** Mr Minors, thank you for appearing before the committee this morning.

1140

JOHN ANTHONY CARTWRIGHT

**The Chair:** I would like to invite Mr John Anthony Cartwright. Good morning, Mr Cartwright.

Excuse me. Could we ask that you clear the room? We are running a little late, and you could have your conversations outside the room. Thank you for your cooperation.

Mr Cartwright, you may wish to address the committee with some brief opening comments or you may just wish for them to start in their normal rotation to ask you questions. Do you have any opening comments?

**Mr Cartwright:** No, I think I'd rather just respond to questions.

**The Chair:** All right, then. Mr Mammoliti, you are the first person.

**Mr Mammoliti:** Thank you, Madam Chair, and welcome, John. It's nice to see you again.

**Mr Runciman:** From your association?

**Mr Mammoliti:** Well, I've seen him in the Legislature from time to time.

John, in terms of promoting and developing tourism through the convention centre, have you got any ideas or any fresh new approach to looking at the increase in tourism dollars that might come through the convention centre? If so, can you share them with us?

**Mr Cartwright:** I think that the key aspect facing the convention centre right now is the issue of expansion of the convention centre. I sit, in my role as manager of the building trades council, on the Metro Jobstart Coalition. We've had a number of presentations made by the convention centre as well as by Exhibition Place and Ontario Place about the whole question of expansion and integration of the exhibit and convention aspect of the tourism industry within greater Metro. The figures that the convention centre shared with us show that quite a number of conventions are now being lost to Metro because they do not have adequate space for hosting some of the larger, international in particular, conventions. So that's an area that I'll be supporting, and supporting through the Jobstart Coalition, which we're on record as that. I think that will be key.

A number of the conventions that have been held at the convention centre over the last number of years, a number of the largest ones, are different national or international unions, a couple of them in particular from the construction trades a few years back. I think that I'll be able to use my influence within the labour movement, particularly the building trades, to act to some degree as an ambassador for the convention centre.

**Mr Mammoliti:** That was my second question. Can you elaborate on that? We've already touched on this. How are you going to act as an ambassador?

**Mr Cartwright:** My own personal union, the carpenters union, held a convention at the convention centre about five years ago and found, obviously, the facilities to be excellent, and we've had conventions previously in places like McCormick Centre in Chicago and Atlantic City. The Food and Commercial Workers International Union has a major convention coming up there this year, and those conventions take place, depending on the organization, every three to five years.

As well, there are national conventions more often than that, and others such as the International Foundation of Employee Benefit Plans, which I'm a member of, that are always making decisions as to where to hold conventions. Through my office I think we can reach out a little bit more to those organizations.

Sometimes Metro Toronto has to overcome some of the prejudice that is held against it within the rest of the country as thinking we have everything, so we have to try twice as hard to get the business rather than people looking to go elsewhere other than here.

**Mr Mammoliti:** I'll yield the floor, Madam Chair, to one of my other colleagues.

**The Chair:** Mr Mammoliti and then Ms Harrington was the order I had.

**Ms Harrington:** There are a couple of things I want to touch on. First of all, the process on how you were approached with regard to this position: Could you just give us how you found out about this?

**Mr Cartwright:** I was contacted by the Ministry of Tourism and Recreation to find out if I'd be interested in being involved with the convention centre. I've been involved in the Expo '98 bid committee and in particular in working with the Italian community to try and swing some votes in Europe in our favour, and dealt with quite a number of people in the convention and tourism business through that process.

**Ms Harrington:** With regard to tourism as a whole in Ontario, obviously I have some stake in this because I represent the city of Niagara Falls. We would like you to share all the good things from Toronto, of course, and we will share with you our tourists. We like to think of Niagara Falls as the entrance or the gateway to Ontario, and then we will let them go to Toronto, and you can put your people down to Niagara Falls, which I guess has always happened in the past.

To expand our facilities and to move ahead into another age, possibly, of tourism, how do you see the financing arrangements? Say we're talking expansion of facilities here, and/or probably the same thing applies to Niagara Falls, where we are looking at expansion of facilities, how do you think they should be financed?

**Mr Cartwright:** The convention centre is in rather



the unique position among a lot of the facilities to be able to raise the capital necessary largely through its own means, although I think they are also looking for some money from the government to help carry that, but they have the ability to bring in a payback on the return for the expansion that's being talked about, virtually within a short number of years.

I guess that contrasts to some degree with the national trade centre, which is also a project which has the support of both the building trades council and the Jobstart Coalition and which we would like to see go ahead. But both the government and the business community, I think, are much more hesitant to give carte blanche to the national trade centre project because of some real concern about the market viability of particularly the national trade centre.

We'd like to see, obviously, both things go ahead, but the business plan that's being presented by the convention centre for that expansion has I think pretty well universally been accepted as being a model in how to bring about capital investment and expansion without strictly looking at the public purse.

**Ms Harrington:** Great. Mr Marchese?

**Mr Marchese:** Thanks, Margaret. That was in fact the question, or related question, I wanted to ask you, John. The government will have limited dollars in terms of what it can put into the Garrison Common plan, and so we're going to have a difficult time deciding where those dollars from a provincial perspective should go. You commented on the fact that the national trade centre is a large project, but some critics say, of course, that it's too large and it's too expensive, based on the return it would get, that the dollars that go into it would not be productive based on the return and that, rather than doing that, we should be doing something else. I think some of them say perhaps we should be doing an expansion of the Metro convention centre, which would bring a higher yield for the dollars that one would invest.

You commented on that earlier. You may not want to give an opinion one way or the other, but if you have an opinion on that, or are there other things we could be doing to build jobs that have a much more comprehensive advantage or good it would bring to the community at large?

**Mr Cartwright:** I don't want to place one against the other, and it's been interesting, because in the presentations made by both Peter Moore from the CNE around the national trade centre and John Maxwell on the convention centre, we questioned fairly closely as to whether or not we were being faced with one or the other and are we being asked—again, I'm talking through the Jobstart Coalition, which is a coalition of the building trades' unions and the contractors' associations—do we have to go with the one or the other? Are they mutually exclusive in the point of eating into each

other's market? They're both quite emphatic in saying that they serve a different kind of market.

I think that the Garrison Common is a tremendously exciting plan for Metro, it's a very important plan for Metro, and when I look around and understand the level of unemployment that we have in construction, which has been 50% now for three years running, we would like to say to the government, "Build it all." So I'm not going to discourage in any way investment in any of the projects that are looked at through the Garrison Common.

I think we're at a time when in fact investment in capital construction makes a tremendous amount of sense because of the good costing that is being supplied through the tendering process at terrifically competitive prices and because it's much better to pay people to work than for them to be on welfare, which is where we're at right now.

1150

If I can expand a little bit more, the other aspect that I bring in my experience is through the convention exhibit and display industry, which is served by the building trades unions, the carpenters, the labourers, the electricians, in particular. That is very much a growing industry. There are hundreds and hundreds of people who work full-time in that industry, supplying the services for establishing convention exhibits and displays, and I think that is an important thing for people to understand economically.

Going back to Niagara Falls, if I can for a second, what happens when you have conventions in Toronto is that any major convention always has tour services that take place where the delegates or their spouses are offered tours, and they inevitably feature Niagara Falls as sort of a spinoff quite aside from Hogtown.

**Mr John C. Cleary (Cornwall):** We had a number of tourism people in to visit us a couple of weeks ago and they were very disgruntled over some of the cutbacks to some of their organizations, like our tourists not being able to get provincial rebates now. How do you feel about that?

The other thing, the same question, is, what kind of promotion would you do? I know you touched on it a bit. What do you think should happen in the Metro tourism convention industry to improve it this summer and in the future?

**Mr Cartwright:** If you look at the role of the convention centre within the tourist industry, it's a pretty specific role as far as bringing people in to attend a convention is concerned. The convention is booked by a major organization. That doesn't really serve the family driving over the border in the station wagon to come up and see Toronto. So it's a bit of a different dynamic.

I think the key really, and the process, will be

expanding the convention centre so that it can host quite a number of the major conventions that it has outgrown. There's a list that the convention centre has of conventions that have been held in Toronto at the convention centre during the 1980s that have now been informed by those sponsoring groups that they are no longer able to book the convention centre because it's too small. What's been happening is that in a number of major North American cities, they have expanded their facilities so that they can take anything going, and we have essentially cut ourselves off.

I think the real answer to how to increase tourism through the convention centre is to have the expansion so that it can serve that growing market, and much more of an international market, that's taking place.

**Mr Cleary:** One other question I might have there—maybe some know but I don't—when you were approached or however you came about getting this position, full-time, how many years are you appointed for?

**Mr Cartwright:** This is not a full-time position.

**Mr Cleary:** It's not full-time?

**Mr Cartwright:** Goodness, no.

**Mr Cleary:** Oh, I'm sorry. I read that wrong.

**Mr Cartwright:** You scare me. Too many things to do for construction workers in Toronto right now. It's a three-year appointment and the board sits, I think, at most monthly. If the construction goes through, it'll be monthly, and if not, I think it's quarterly.

**Mr Curling:** I don't have many questions for you, but you made a comment here that—I know you don't serve those who are driving over the border coming to conventions, but they do have an influence because what influences people to select convention centres are the activities around there and that's why it becomes a tourist attraction.

Are you concerned that the government itself, which actually actively campaigns against—even sometimes a member of Bread Not Circuses and a couple of things like that, almost discouraging the industry to expand because they feel that they should have more bread than, as they call other things, circuses.

Do you feel that the board you would be serving on and the government that you are more or less responsible to from the board have changed their attitude in order to develop the trade aspects of Ontario so that the convention centre can then start to be receiving all those who like to have conventions in this city? I think the mood has changed.

**Mr Cartwright:** I'm not actually quite sure of the question you're putting to me.

**Mr Curling:** I'm saying that I wonder what support you have within the government in one respect. Firstly, if you promote all the activities here in trade and all

that, people will of course have conventions. If people don't see Toronto as a place like that, they will not hold their conventions here. Do you think there's a change of attitude within the government now that would encourage you to expand the convention centre?

**Mr Cartwright:** The discussions that have been taking place in the last period of time around the convention centre, or for that matter the Garrison Common and the national trade centre and the whole upgrading, I think have been very positive. I don't know if it's necessarily people having changed their own positions.

I have to say that I think the role of David Crombie in the regeneration, trying to bring all levels of government together to say, "Hey, we have some common problems and how do we resolve those problems?" has been really quite vital. While the convention centre is not strictly within the Garrison Common, that approach he's been working on for the last number of years and in particular the last two in the implementation plan I think has had its positive effect at every level of government—the feds, the province, Metro and the city. I think maybe all of us, as the economic situation has gotten a little tighter, have started realizing that turf wars or philosophical wars about things aren't nearly as important as sitting down and trying to come up with some common solutions. I don't know if that really answers your question.

**Mr Curling:** All right. At the end of the day, do you feel that the tourism strategy that has been expounded by the government now is very helpful to your convention centre and the expansion, or do you feel that the tourism strategy itself has got to change in order to respond?

**Mr Cartwright:** To be honest with you, I'm not totally familiar with the overall tourism strategy of this government. I sit on the city of Toronto economic development committee, where we deal with a lot of the issues that have to take place around tourism.

**Mr Curling:** Do you feel it's important, then, that they have a sort of tourism strategy to assist the convention centre?

**Mr Cartwright:** Yes, absolutely.

**Mr Curling:** Would that be one of your major goals when you get there, to see what kind of tourism strategies can complement the convention centre?

**Mr Cartwright:** I wouldn't say it will be a major goal. I think it will be part of how I see the mandate.

**Mr Curling:** Why would they come here then? Why would they have a convention here if they don't have—

**Mr Cartwright:** You're asking me about a tourism strategy, which encompasses a whole lot of things: people going to do fishing up north and coming to the—

**Mr Curling:** No, I'm talking about down here, the tourism strategy down here. There wouldn't be a



tourism strategy—if they want to go fishing, they wouldn't come to Toronto and try the harbour here, outside in the lake here. Well, they could but I wouldn't know what to do with that fish.

**Mr Cartwright:** I see the convention centre as a key part, I guess, of the broader provincial tourism strategy and I don't feel comfortable with commenting on what that broader strategy is.

I see within Metro it's important for us to have an aggressive tourism strategy in relation to the trade and convention business, which is a huge business and is growing. That ties into your point, if I can expand on it, around the other attractions that make that why people want to come.

**Mr Curling:** I agree.

**Mr Cartwright:** I think there's been some very solid support around the Garrison Common with bringing in an LRT down to Ontario Place, with having the Ex talking to Ontario Place so that they may look at a coordinated strategy to talk about those places being year-round tourist venues. I think that's really important and I'll be seeking to have an input on that and pushing for those kinds of things to take place.

**Mr Curling:** Good.

**Mr Cartwright:** I'm sorry, I may not have really been—

**Mr Runciman:** Mr Cartwright, I was a little curious. You seem to be on a first-name basis with the government members of the committee. Is there any reason for that?

**Mr Cartwright:** Well, George Mammoliti: Before I became manager of the building trades, I was a representative of the Carpenters and Allied Workers union, and he was the sitting member in the area where our hall was.

**Mr Runciman:** So there's no political reason for that. You don't have any ties to the NDP?

**Mr Cartwright:** No, I don't.

**Mr Runciman:** And never had in the past?

**Mr Cartwright:** No, not even the Liberals.

1200

**Mr Runciman:** I'm impressed by your grasp of the issues related to the operation of the convention centre. Just in respect to the process, I have a couple of questions. When you were called by, you said, a representative of the Ministry of Tourism, did this just come out of the blue? Had you expressed an interest to anyone in serving in this capacity?

**Mr Cartwright:** Not specifically in this capacity. Since taking over as manager of the building trades council, I've been very involved in a number of issues, as I've outlined, and have expressed my willingness to go out and serve and do whatever needs to get done—

**Mr Runciman:** I appreciate that.

**Mr Cartwright:** —to build those kinds of—

**Mr Runciman:** You hadn't expressed a specific interest in this particular appointment?

**Mr Cartwright:** I hadn't requested it, no.

**Mr Runciman:** I'm just curious. This is no reflection on you; it's a reflection on the materials that the government provides when it talks about a candidate's search process. I think it's something of a sham when they talk about reviewing résumés and talking to stakeholders and so on. But in any event, that's no reflection on you. When you talked to the government in respect to this appointment, did it talk about anything that it'd like to see you doing in terms of representing its views, its interests, its agenda? Was there any discussion along those lines?

**Mr Cartwright:** No, not at all.

**Mr Runciman:** Looking at your labour background, I have no difficulty with that. I think it's appropriate that someone with your background serve on this board. I think it's a good idea. I was just wondering if you have any particular concerns in respect to areas related to your background in terms of the labour movement: the operations of the facilities, the part-time employees, the concessions. Do you have any concerns in respect to unionization, non-unionization, casual labour, those kinds of things that would necessarily, perhaps, have some interest for you?

**Mr Cartwright:** No. The convention centre is a unionized centre and I don't have any particular concern with that.

**Mr Runciman:** Even the part-time employees are unionized, as far as you know?

**Mr Cartwright:** To the best of my knowledge, they are.

**Mr Runciman:** Okay. So you don't have any specific agenda in respect to those kinds of things.

I'm just curious about when you're advised that you have to appear before this committee in terms of a review prior to the appointment being formalized, and that's all it is. Does the government provide you with any briefing materials? Is there any briefing session, any discussion related to issues? Are you provided with any information with respect to those things?

**Mr Cartwright:** It was suggested that I might want to go and talk to some people at the convention centre whom I'd met with before, as I've said, through the Jobstart Coalition. I phoned up and made an appointment with John Maxwell and sat down with him and talked about what the centre does.

**Mr Runciman:** I see. So that's perhaps a bit of an explanation in terms of your grasp of some of the current concerns and issues.

**Mr Cartwright:** Actually, no. I don't think there's anything he told me that I didn't know, because they

have been involved in trying to garner support from the Jobstart Coalition in particular, as has just about every other organization with any sense of development or construction plan. We take a lot of time on those issues, because of the dire levels of unemployment in our industry. That's a joint approach between ourselves and the contractors' association.

**Mr Runciman:** You're not provided with any written briefing materials by government or anyone representing the government in terms of issues of concern?

**Mr Cartwright:** No.

**Mr Runciman:** You talk about expansion of the convention centre. I guess the board has recommended that the expansion occur.

**Mr Cartwright:** The board of the convention centre has, certainly, yes.

**Mr Runciman:** How does that process work in terms of moving beyond that? I think I saw the figure of \$175 million as an estimate. I think I read that somewhere in this briefing note, that the \$175-million subterranean project will double the size of the convention centre. How does the process work in terms of moving beyond the board saying, "We think this is needed and it's going to assist us and assist the city and assist the province"? What's the next stage?

**Mr Cartwright:** Well, they've gone to a number of organizations and agencies, in particular Jobstart and others, to say, "This is something we want to see on the hopper," which is there along with many others. I think the Crombie commission took a look at that, the national trade centre, Ontario Place, the LRT issue, and in particular was reviewing what made the most economic sense—I guess the best bang for the buck, if you want to be crude about it—in relation particularly between the national trade centre expansion and the convention centre.

I don't know that that study has been completed yet. I would assume that once it's completed it will be put before the powers that be and they'll have to make some decisions, and I guess that will be a cabinet decision. The other one that I guess is also in the hopper is around the O'Keefe. There have been discussions about all of those issues being expanded.

**Mr Runciman:** Your full-time job with the Instruction Trades Council: Do you get involved with these kinds of things? Are you approached in terms of a lobbying effort? Because it does mean jobs for your membership, obviously, if this kind of thing occurs. Do you get involved in that? Have you been approached? Have you taken a position in the past? Has the council taken a position?

**Mr Cartwright:** On the convention centre?

**Mr Runciman:** Yes.

**Mr Cartwright:** Oh yes, we've taken a very definite

position that we want to see the convention centre expanded; we want to see the O'Keefe expanded; we want to see the trade centre expanded; we want the LRT in tomorrow; we want the Eglinton West transit going ahead yesterday; we want the Spadina LRT going.

Yes, we function; in fact we've established a coalition specifically to lobby for construction projects in Toronto, capital projects as well as cutting the red tape around some private projects. We have taken very strong public positions of saying that this is the time when everybody should be spending money in construction because they get the best value for their dollar, whether it be taxpayer or private dollar.

**Mr McLean:** Wouldn't there be a conflict of interest there with you sitting on the Metropolitan Toronto Convention Centre board wanting to initiate the expansion of that board or voting in favour of that?

**Mr Cartwright:** No, I don't believe so.

**Mr McLean:** You don't believe it would be?

**Mr Cartwright:** No, the position of the board is that they should have the expansion, so I'd be one other person saying "aye."

**Mr McLean:** And your membership would be benefiting, which you are a head of?

**Mr Cartwright:** I would hope so. Put them to work.

**Mr Runciman:** I have no further questions.

**The Chair:** Thank you, Mr Cartwright, for appearing before the committee this morning.

Before we vote on this morning's appointments, I wanted to advise the committee that Mr Cowan—Mr Waters understands this because we discussed it in the subcommittee—was an individual who had been appointed to three different bodies, and at the time the subcommittee selected Mr Cowan to come before this committee for one of those bodies, the subcommittee did not know that each appointment was contingent on the other. So by not selecting him for the other two, the other two appointments went forward automatically for approval.

We then were going to have Mr Cowan come back—and I think this is the right individual, isn't it? We actually changed his appointment and then the next time he would have been scheduled to come before the committee, he was in fact working and was unavailable. So we decided—I should say the subcommittee decided—that they would recommend his appointment to the Health Facilities Appeal Board because of the fact that really it was contingent on the other two appointments which he already had, so it seemed rather superfluous to—

**Mr Marchese:** I would move concurrence in that report.

**The Chair:** All right, thank you, Mr Marchese. Mr Curling?



**Mr Curling:** Just on another point, I was looking at the process of selection and I have some concerns about that. The fact is that I know I was the one who had called Rosemary Brown forward and also asked for an hour, and therefore I am penalized in certain respects. Because I asked for an hour, I would not get another selection; I would miss my selection. However, when it goes around, it seems to me all parties get equal time in which to speak. I get penalized for the selection but they get the full participation that I would have participated in.

1210

**The Chair:** Mr Curling, the committee structure is established so that there is equal opportunity for all parties to participate equally.

**Mr Curling:** I like that, but I don't see why I should be penalized because we asked for the hour.

**The Chair:** Look how few appointments we can deal with in this process anyway, even with half-hour appointments.

**Mr Curling:** I understand that.

**The Chair:** I think there has been a historical precedent with the committee, where if you choose to spend an hour, then you're eliminating the opportunity to see two people rather than just one for that hour. That's why it's been handled the way it has.

**Mr Curling:** I understand, but as I said, I put the point that then when it comes, everyone gets equal time in which to speak, but I was penalized because I asked for the hour, which I thought was important.

**The Chair:** I think maybe we can discuss this again in the subcommittee. We understand the point that you're making.

Do you wish to vote on these appointments this morning individually? If so, would somebody make a motion to the individual appointments, or do you wish to vote? I'm waiting for a motion, in other words.

**Mr Marchese:** It depends. If the other members want to do it seriatim, that's fine with us.

**The Chair:** All right. Mr McLean, Mr Curling, Mr Cleary, do you wish to vote on the appointments individually this morning?

**Mr Curling:** I'd like to vote individually.

**The Chair:** All right. Would somebody move the appointment of Ms Rosemary Brown.

**Mr Marchese:** I so move.

**The Chair:** Moved by Mr Marchese. All in favour of the appointment of Ms Rosemary Brown? Thank you.

All right, now the appointment of Mr Arnold Minors to the Metropolitan Toronto Police Services Board.

**Mr Frankford:** So moved.

**The Chair:** Moved by Dr Frankford. All in favour of Mr Minors's appointment?

**Mr Marchese:** Mr Curling, we're voting.

**The Chair:** We're voting on Mr Minors.

**Mr Curling:** I'm quite mindful of what's happening.

**The Chair:** All right. Those opposed?

**Mr Curling:** I'm voting for him.

**The Chair:** Excuse me? Were you voting in favour?

**Mr Curling:** I'm voting for Minors.

**The Chair:** All right. Mr Cleary?

**Mr Cleary:** I'll vote against it.

**The Chair:** All right, thank you.

The appointment of Mr Cartwright to the Metropolitan Toronto Convention Centre board of directors.

**Mr Mammoliti:** So moved.

**The Chair:** Moved by Mr Mammoliti. All in favour? Opposed, if any?

**Mr Marchese:** You're consistent today, John.

**Mr Cleary:** That is true.

**The Chair:** All right, thank you.

#### COMMITTEE BUSINESS

**The Chair:** We haven't finished. We have two reports that you received in your agenda that are outstanding and they need approval so that we can adopt them. If there are any amendments, we have to send these for translation and to be printed. The first report is on Science North.

**Mr Marchese:** On Science North, I want to thank Mr Pond for the changes he's made and would move acceptance, if we have not done that the last meeting. Did we move acceptance of this report at the last meeting with these proposed changes? We'll move acceptance of this report then.

**The Chair:** All right. All in favour of the report on Science North? Opposed? That's carried. So we'll send it for translation and to the Clerk's table when reprinted.

**Mr Marchese:** Madam Chair, on the next report, I know Mr Waters wanted to make some changes, some suggestions of wording changes. Could we refer this to the next meeting in order to allow him to do that, or is that a problem for some people?

**The Chair:** I think the difficulty of deferring it is that if we want to get these reports translated in time to be approved in the House, we're already very tight in terms of the time frame. Maybe our clerk can advise us of what the time frame difficulty is.

**Clerk of the Committee (Ms Lynn Mellor):** The bulk of the reports that are currently at translation, it will be three weeks before they're finished and then they have to be printed, and the House rises on the 24th. That's the problem with the time frame.

**Mr Marchese:** That's fine. Could we pass it with an understanding that Mr Waters would speak to the Chair about some of those changes based on whether or not

they're accurate?

**Mr Curling:** Change it after?

**The Chair:** No. I think if there are going to be any changes made to this report, they have to be made by the entire committee being in attendance. We can't handle side amendments outside of the committee structure itself.

If you would like, Mr Marchese, we have the option of passing it today without—Mr Waters was here earlier. He didn't say anything to me about his proposed amendments. We can postpone it for a week, but there would be no guarantees then, of course, that we could deal with it in the time frame.

**Mr Marchese:** Okay, that's fine, Madam Chair. We can deal with it today.

**The Chair:** All right. Does somebody wish to move approval, or would you like Mr Pond to review any of this report on the Metropolitan Toronto Police Services Board?

**Mr Marchese:** I would have liked to have done that but I'm simply not clear on the changes that he would have liked to have made.

**Mr Mammoliti:** Can I ask a question in terms of the discussion?

**The Chair:** Well, you still have the choice. I mean, if you wish to postpone it for Mr Waters till next week, we can do that but, as I say, there's no guarantee then that we can get it translated and to the printers and back before the House rises, but we'll try.

**Mr Mammoliti:** I'd like to ask a question in terms of the discussion that took place the last time that we had spoken about this, and that's the statistics that are gathered.

**Mr David Pond:** I attempted to address the point you raised, sir, with the last paragraph on page 21, which is in shaded ink.

**Mr Curling:** So what's your question?

**Mr Mammoliti:** My question is, is this an end to the discussion or are we planning on discussing this a little further? I know I've had a chance to talk to some of my colleagues on this side and we were interested in hearing from some sort of an expert on this issue and perhaps being able to ask that expert some questions in terms of statistics in this area. Before I vote, I'd like to get an indication of where we're going to go from here on this issue.

**Mr Curling:** So you're postponing this now? There was a question—

**Mr Mammoliti:** No, not necessarily, Alvin. I just want to see some sort of a commitment. I think we should have a discussion.

**Mr Curling:** —just got to accept it or not, and if not, you do discussion later. If you don't want to accept it, you don't.

**Mr Mammoliti:** So be it, but—

**The Chair:** I think the point is, George, that if you wish to change the wording on page 21, then this is the time to do that. This is a report of what the committee's findings are on this subject, and if there's some wording in the report that doesn't represent what you want the report to read, you may—

**Mr Mammoliti:** Would it be appropriate to suggest and to add that this committee have a chance to question an expert at one particular time? Would it be appropriate to include these remarks in the report?

**The Chair:** Some of that has taken place before this committee, but if you're saying that you want the committee to spend more time on this report, I assume that's an option of the committee. All I'm asking for today is whether—as you see before you, it's a draft final report on the Metropolitan Toronto Police Services Board. If you wish to have more information before you approve this draft and make it the final report of this committee, that is an option of the committee.

**Mr McLean:** We have spent a lot of time on this Toronto police services board. We've had McCormack in, we've had Susan Eng in, we've had a lot of people in. People who were on the committee when we were dealing with this, some of them are not here now. This report, in my estimation, is finalized. It had been sent back for revision. I would simply say that those two reports now should have been received and ordered for printing, ordered to the House.

**The Chair:** There is another option too, Mr Mammoliti, and that would be that if this report is approved by a majority of the committee, individuals can submit a minority report.

*Interjection.*

**The Chair:** Pardon me, sorry, a dissenting opinion. I used the wrong word.

**Mr McLean:** I'd like to make a motion that the standing committee on government agencies report the two reports, the final report on Science North and the final draft report on the Metropolitan Toronto Police Services Board.

**The Chair:** We've already voted on Science North, so your motion is to approve this as the final report.

**Mr Curling:** I second that.

**The Chair:** We don't need a seconder. Dr Frankford, you had a comment?

**Mr Frankford:** I was very supportive of this possibility of bringing in an outside expert on criminal statistics. Just briefly, I was quite taken by the witness the response of the witness this morning about crime statistics, suggesting that one should also be looking at statistics on victims, which I had not thought of before. I think that this is a very interesting and important area which we seem to be—



**The Chair:** Okay. I hear what you're saying, Dr Frankford, and all I'm suggesting is that if that is the direction in which you wish to go, then you have to vote against the motion that's on the floor. Right now, there's a motion on the floor to approve this report that is before you as it is printed.

**Mr McLean:** I ask that the motion be put.

**The Chair:** We have a motion to call the question. All those in favour of calling the question on voting on

the motion? The motion is to approve the report. All those in favour of calling the question? Opposed to calling the question? All right. All those in favour of the motion to approve the draft final report on the Metropolitan Toronto Police Services Board? All in favour of the report? Opposed? The hands are going up and down. Opposed? Thank you. The motion is carried.

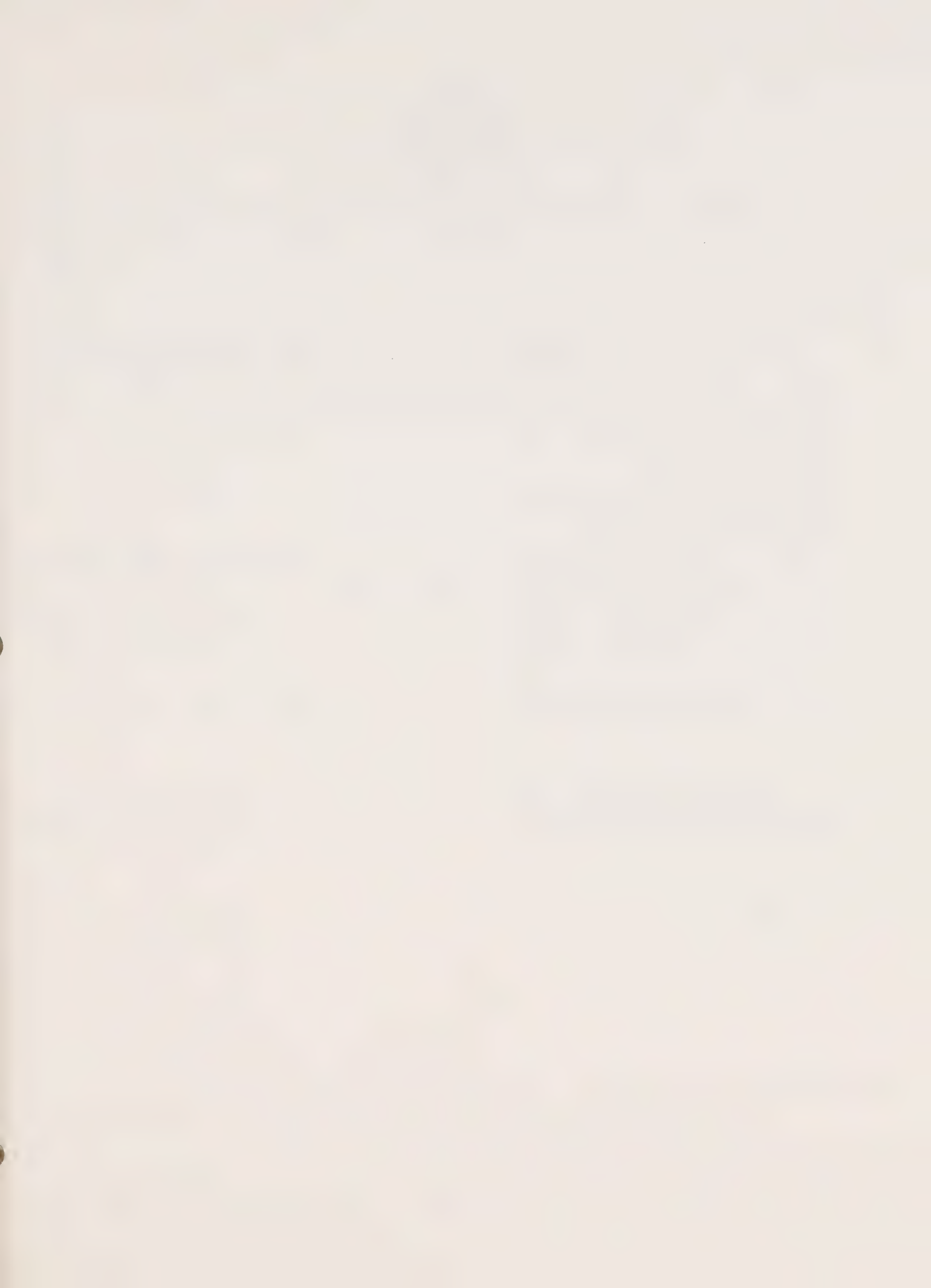
We can move adjournment of the committee and we are going to have a meeting of the subcommittee.

The committee adjourned at 1222.











## CONTENTS

Wednesday 2 June 1993

<b>Appointments review</b> .....	A-45
Rosemary Brown .....	A-45
Arnold Minors .....	A-54
John Anthony Cartwright .....	A-59
<b>Committee business</b> .....	A-64

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
  - Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Also taking part / Autres participants et participantes:**

Runciman, Robert W. (Leeds-Grenville PC)

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service

CADON  
Xc19  
- G52

Government  
Publications



A-5

A-5

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 June 1993

# Journal des débats (Hansard)

Mercredi 9 juin 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Appointments review

Révision des nominations

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Coat of arms**

A new coat of arms appears on the cover of Hansard. Presented to the Legislative Assembly of Ontario by the Governor General on 26 April 1993, it emphasizes the distinctive character of the Assembly and distinguishes the Assembly's identity from that of the government. It was created at this time to mark the bicentennial of the First Parliament of Upper Canada and the centennial of the present Legislative Building. Further information may be obtained by calling 416-325-7500.

### **Table of contents**

Table of contents for proceedings reported in this issue appears on the outside back cover, together with a list of committee members and others taking part.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Les Armoiries**

Les nouvelles armoiries paraissent sur la couverture du Journal des débats. Présentées à l'Assemblée législative de l'Ontario par le gouverneur général le 26 avril 1993, elles soulignent le caractère distinct de l'Assemblée et mettent en valeur l'identité de l'Assemblée par rapport au gouvernement. Les armoiries ont été créées en ce moment pour marquer le bicentenaire du premier parlement du Haut-Canada et le centenaire du présent Édifice de l'Assemblée législative. De plus amples renseignements sont disponibles en composant le 416-325-7500.

### **Table des matières**

La table des matières des séances rapportées dans ce numéro se trouve sur la couverture à l'arrière de ce fascicule, ainsi qu'une liste des membres du comité et d'autres personnes ayant participé.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 9 June 1993

The committee met at 1037 in room 228.

SUBCOMMITTEE REPORT  
COMMITTEE BUDGET

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call this meeting of the standing committee on government agencies to order.

The first order of business this morning on your agenda, you will see, is the approval of the subcommittee report of Wednesday, June 2. There is a change to the subcommittee report. No, there isn't a change to the report, but there is a correction. If you see on your subcommittee report, you'll notice that as it—I think one of the words we used was that a gremlin got into the last report. Mr Regent Gagnon was scheduled for June 9 and in the report that we approved last week he was scheduled for June 16. However, we're looking forward to seeing him today and we apologize for the scheduling error in terms of our computer. That's something I just wanted to draw to your attention. The rest of the committee report is in order as printed before you.

We would like two motions this morning, if we could, please, on the subcommittee report, so that we have a separate motion approving the budget and a separate motion approving the subcommittee report. Are there any questions or would somebody like to move the report and the budget?

**Mr Randy R. Hope (Chatham-Kent):** I'd like to move the report and the budget.

**Mrs Elizabeth Witmer (Waterloo North):** I second that.

**The Chair:** Thank you. Any discussion? All in favour? That's carried. Are you also moving the budget as well?

**Mr Hope:** I move the budget also.

**Mrs Witmer:** I second that.

**The Chair:** All in favour? That's carried.

## APPOINTMENTS REVIEW

Consideration of intended appointments.

**The Chair:** As you know, our first appointment this morning was to have been Wendy Priesnitz, who is an intended appointee as vice-chair of the Ontario Film Review Board. However, as the committee was notified yesterday by the clerk's office, Ms Priesnitz was unable to attend this morning, so that interview was actually cancelled.

**Mrs Witmer:** I certainly do regret the fact that Wendy Priesnitz was not able to appear before us today. It was a review that I was looking forward to and certainly needs to take place. I would anticipate that you

would plan to reschedule her in August, after her return from vacation on July 14.

**The Chair:** It will be possible to reschedule her interview in the summer schedule. Initially, that decision has to be made by the subcommittee. The subcommittee will discuss rescheduling her interview at noon today and then the subcommittee will make a report back and the whole committee will make a decision. It is true that this committee meets during the summer to review appointments, so it's quite possible to have Ms Priesnitz rescheduled when she returns from her vacation instead of today's appointment.

ERIC SISÈL

**The Chair:** We would now move to our 10:30 appointment. I apologize to you, Dr Sisèl, for keeping you waiting. I'm sorry; we're running a little late. Would you like to come forward and take a seat before the committee. Just as you're doing that, our researcher has some notations that he wishes to make.

**Mr David Pond:** Briefly, there are a couple of points in the paper I prepared for you on this appointment which I'd like to correct or update, just so there's no misunderstanding. On the bottom of page 5 and at the top of page 6 I say that, "All positions on the board are part-time" and that the chair has to be a judge. My information is that the new chair of the board is not a judge and she will be serving full-time.

The other thing I should clear up, just so there's no misunderstanding, though it's probably a bit more technical, is in the first full paragraph on page 3. I give the impression that individuals who are found to be not criminally responsible or suffering from a mental disorder and not fit to stand trial are automatically sent to the review board for a hearing, and that's not the case. The court does retain considerable discretion about the disposition. These people are not automatically sent on to the review board for a hearing. That's it.

**The Chair:** All right. Thank you, Mr Pond.

Dr Sisèl, you're welcome to make some opening comments to the committee, if you wish. If not, we will just start in rotation with the committee members.

**Dr Eric Sisèl:** If I may, Madam Chairman, just very briefly, I would like to express to you and through you to the members of your committee my appreciation for your work and the effort that has gone into the selection process. It has certainly reinforced to me the excellence of the system and of the entire process, because your participation as our elected representatives gives me that assurance.

I also would like to express, through you to the staff of this committee and the various ministries who do the



groundwork to bring the best possible selections to you, my thanks for their commitment.

**The Chair:** This is actually the beginning of the involvement of this committee. Prior to today, this committee has not been involved. The process has been that your name has been referred to this committee by the Premier's office and it's our understanding that, prior to that, your appointment was approved by the cabinet. That is the process. This is the first involvement of this committee, but thank you for your kind comments.

This appointment was selected for review by the third party, so, Ms Witmer, if you have some questions.

**Mrs Witmer:** Welcome, Dr Sisèl. We're really pleased that you are here today. Obviously, you're going to face quite a challenge on this board. There's been tremendous concern expressed throughout the province, throughout the country, about the safeguards for the public.

I guess my question to you would be: Do you think that the system that is presently in place does provide sufficient safeguards for the public at the present time?

**Dr Sisèl:** I feel it does. Certainly Bill C-30 has added—and I consider it a step in the right direction—to that security, to those safeguards. The board now makes deliberations, the way I understand it, in a far more decisive manner than before. Under the previous legislation, as you're well aware, the board's role was one of an advisory capacity only. The Lieutenant Governor really made the final decisions. That capacity was well served by a succession of lieutenant governors who did so much groundwork themselves. I understand Lincoln Alexander practically read every case himself, and, boy, that's really something.

In the present board, we have a heavy responsibility. I think your concern, which I share in my community as well as in the communities that I'm in touch with on a continuing basis—I find there is this real fear that people are put back in the community without adequate rehabilitation. That has to be our first concern.

As I approach this new challenge on the board, it has to be paramount to assure our communities and our people in those communities that there are adequate safeguards in place. That has to be paramount and always will remain so. That has to be balanced, of course, with the needs of the individuals who are mentally ill and as a result may receive treatment if they so desire.

We are looking forward with great concern to substitute consent legislation. This will probably change the whole picture. But to maintain the safeguards and to balance them with the needs of the individual, that is a challenging task indeed.

**Mrs Witmer:** How do you think the consent legislation is going to change things?

**Dr Sisèl:** In Penetanguishene Mental Health Centre, where I have been the chairman of the board for the last few years, I find a great concern among staff about what the new legislation will bring. We put a lot of emphasis, and rightly so, on the rights of the individual, but we find in the actual day-to-day operations, if individuals refuse treatment, the effect is to warehouse them. You still have to detain them to safeguard the community, but what do you do with them?

If an individual refuses treatment—and that's a dilemma for the physician because the attending psychiatrist, in his ethical observance, feels this is something now that's best for the patient, but the patient refuses—you still have to detain him or her. So what do you do? You warehouse them. You just put them as human storage. That is demoralizing to everybody concerned, including the person affected. That is a real concern for the future.

**Mrs Witmer:** That's an important perspective, I think, to bring to that. We've talked about the threat to the community. Obviously there are always going to be people in the community who are going to feel very threatened.

You've talked a little bit about your experience at Penetanguishene. I guess I would like to ask you: What other talents, skills, experience do you bring to this position that would give you some experience in making this type of determination?

1050

**Dr Sisèl:** Generally speaking, I have always had in my life a commitment to people. As a pastor, as an Ontario human rights officer, I've always had a commitment to people and to serve them. As a pastor, especially in the communities up north that I serve, I have to deal with people on a daily basis. I have 27 years of ministry, of being a pastor and, as such, it has given me an insight into people's behaviour, into their needs, into their problems.

That has been added to by my experience in the mental health centre in Penetanguishene. I've gained in particular a view of our mental health system, how it operates today, its day-to-day problems on the front line. For instance, to give you an example, I know most of the people in Oak Ridge division who are maximum security patients. I know them on a first-name basis. Tomorrow, as we have our community picnic, the board members will be serving lunch to the patients. So you get to know them and you understand them more as human beings.

In addition to that, I've seen the mental health system province-wide. I've visited all 10 provincial psychiatric hospitals. I've seen their facilities. I believe that in my time on the board, to understand what facilities are available throughout the province in other institutions, in Brockville, in North Bay, in Thunder Bay, is going to be of vital importance to determine how an individual

can be best rehabilitated, and lead to the eventual, if possible, reintegration into the community for that individual.

The greatest challenge that I see is to predict the future behaviour of an individual. I share that concern with the top psychiatrists in the hospital. With all your clinical knowledge, with all your human compassion, to predict future human behaviour, especially of someone who's mentally ill, is almost impossible. You can only make an educated guess.

Of course, with the new responsibility for the board, to know that if you speed up the reintegration of an individual based on a calculated risk—and it is a risk nevertheless—and the individual becomes recidivist, again commits some kind of—we're dealing with very violent people. In the present contingent at Oak Ridge, there are very violent individuals with longitudinal histories of many acts of violence. If you release that person back into the community, even based on expert information, you're always having a risk.

That one is quite a responsibility. It hasn't happened yet because it's too short a time that we've been operating under the new legislation, but if a violent incident such as in Brockville recurs, we may all be liable. That's our dilemma.

**Mrs Witmer:** It certainly is difficult. Thank you very much, Dr Sisèl.

**Mr Daniel Waters (Muskoka-Georgian Bay):** Good morning again. It's nice to see you down here. Something I never realized is that when the verdict comes down, the person does not necessarily and automatically go to a psychiatric hospital. The trial judge has three options, as I see it, at the disposition of the hearing: send the person to a hospital pending the first disposition; the status quo, ie, the accused remains subject to whatever order for custody was in existence at the time of the finding; or release. Do you think trial judges use all of that adequately or do you think they just automatically go the one route?

**Dr Sisèl:** I have little experience in courtrooms except as a newspaperman, where for years, for decades or more, I've watched court proceedings. Of course, I have sympathy for the position of judges. They have many pressures upon them. Every court has. There are so many pressures to look after the best interests of the individual, of the jurisprudence, of the system itself. Sometimes to find the right way of doing what is best for the community, doing what is best for the individual, requires the wisdom of Solomon, which we as human beings seldom can muster. But I think that in the majority of cases I have observed and heard about, the courts have tried to act wisely. It's always easier afterwards to recognize where the fault has been and hindsight is 20-20 vision.

**Mr Waters:** How true it is. I guess I have some-

thing that really I don't know how much background there is on, but because I've been involved in some local things over the last while with my federal counterpart from Simcoe North, I'm curious about your opinion on what is being talked about, of bringing in a number of sex offenders into Penetang from across the province, because now 13%, I think, in prisons are sex offenders. Doug Lewis has been talking to me, as well as his counterparts in the province, about bringing these people together into Penetang. As a politician, I see it as a good option, but as a person who works closely with the institution, I would appreciate your opinion on that.

**Dr Sisèl:** When we heard the announcement a day or so ago, it really gave a lot of us apprehension, because it's going to create problems. I appreciate your view that of course we have to save. Instead of building a new institution, we can make use of existing facilities. We have at the moment in Oak Ridge about 80 patients and it's not overcrowded, so certainly there wouldn't be any problem. But we foresee a number of problems arising in having, perhaps from a large part of Canada, patients come to Penetanguishene.

I would say, in balancing what I've just said, that I have such confidence in the staff and the administration of Penetanguishene hospital that I think we'll be able to handle it. I have unabashed admiration for the staff at Oak Ridge as well as the regional division of Penetanguishene. These are top people. They're committed to mental health care, and although we have concerns, especially in cutbacks—you see, we're always going to need mental institutions for the seriously mentally ill.

The Graham report has pointed the way to the community, but a lot of people have misunderstood Graham. They thought that by pushing people off into the community it's going to be become cheaper, and that's not true. In our experience, we find that even though you rehabilitate people into the community, the provision of mental health services by the community is going to be expensive and time-consuming and costly for many years to come. Yet at the same time you must maintain the institutions for the seriously mentally ill who are not fit to go back into the community.

So you're facing a double-edged sword, and funds are vitally necessary for that operation, to give us good mental health services in this province. We who are on the front line in Penetanguishene and other hospitals have to bear that impact of federal political decisions such as were made yesterday, but we're going to make it work.

**Mr Waters:** I guess that's one of the reasons that at this point, and it is early on in the discussions, I'm supportive of it. It's because of the staff and because of the ability of that staff and the knowledge that has been built up there. We have a problem that is scattered throughout our country and no one really seems to be



working on the issue, other than storing it. Hopefully, if we do move them into Penetang, with the knowledge and the skills that are there, indeed we'll be able to work on the problem.

1100

I find it interesting, your comment on moving people out to the community, because one of the things I found in Gravenhurst, where we had an institution for the mentally delayed that is being closed, we have a definite lack now of people like clinical psychologists and that. These people have been moved out of the institution, where they had all of the care, moved into the community, and some of their key care components aren't there with them because there aren't enough people in any given community for a person to service them. It's a concern that I have because in our region we do have the two facilities, and actually Penetang is more than just Oak Ridge, for instance, if you consider all aspects of Penetang.

**Dr Sisèl:** A few days ago, to make a further comment to your observation, we had the annual CAB community advisory board, conference in Windsor. Ruth Grier, the minister, addressed us. She recalled, as an alderman in Etobicoke, the closing of Lakeshore Psychiatric Hospital and how the people were, in a real sense, dumped on the community, partially to Queen Street and partially to other places.

I have seen other jurisdictions. I've been in San Francisco. They faced a few years ago the same problem. Cutting back on costs, they released to a great degree the people from the mental institutions on to the streets. Now you get to San Francisco and you see them lying by the hundreds on the sidewalks. You have created a social problem that would turn your heart, and yet who is helping those people if government agencies can no longer handle it? It's a very real dilemma.

**Mr Waters:** But in our own community, and without mentioning the names of some of the people within our community, if you were to ask the average persons on the street they are led to believe that indeed the person's lot is somewhat better in the group home system or back into the community. I agree with you. I don't see that necessarily for all of them. For some, yes, but for the entire population of some of these institutions I don't think we've done the best we can and I agree with you on that.

**Dr Sisèl:** You have to treat each one as an individual.

**The Chair:** Thank you, Mr Waters. I'm sorry, Mr Marchese, your caucus is out of time. Mr Curling.

**Mr Alvin Curling (Scarborough North):** Doctor, I am very glad that you are here and that we are able to ask some questions. I almost find myself rather in a peculiar position in asking people who are coming before us to be reviewed for appointment. I got a funny

feeling that people are already appointed and we are just going to go through the exercise to ask you. But this is a great responsibility which you have taken on or they have asked you to take on, whatever way one perceives it.

You have expressed also that you have an understanding of the board and its role, but has the ministry itself taken that time to take you in and give you a briefing about what's happening and what is expected of you and what is expected of the board? Has the minister done this?

**Dr Sisèl:** Not yet, and I think this would be premature because still the appointment has to be confirmed by this committee. I never considered this just a rubber-stamping process. I think you have a very vital part to play, and your concern is quite appreciated by myself. I would say to you, on my own, I have sat as an observer on the board. Its meetings are public, of course; not its deliberations but its meetings are. For the administration, at times I have attended the board. This was in the days when it only had an advisory capacity.

I also understand that in the next few months, probably after the appointment, if it is made and confirmed by you, I will receive an orientation by the board, which looks after that process on its own. That is what I have been told. I look forward to that learning experience to get a closer knowledge, and I would offer to you very gladly to come back to this committee after having been on the board for a considerable length of time to gain the experience; that I then report to you on my experiences and what adequate training and preparation has been received.

**Mr Curling:** I appreciate your coming. I can't recall us ever voting against someone; it's not been done. The rubber stamp is over there anyhow. They've been rubber-stamped already. Many people who have come here we have concerns about and have voted against. I have no concerns that you're not capable. Your biography states for itself. The way you articulate and express your understanding, you seem to have a grip of it. But when you use the word "you"—I don't have a decision in this; I just have to make comments. I don't want to bring you into that.

You mentioned the safety, the balance between those who would be released and the controversial situation that goes on about releasing people who are either ex-psychiatric patients or who have been inmates in a prison and have been let out on society. The balance between the safety of the community against individual rights has been debated and has been quite a hot issue in the paper lately. I, for one, really can understand the concerns of the community.

But deep down, the individual's rights—and I don't want to talk about the right to go out and to kill or the right to do all these things, but sometimes I regard it that individual rights are sort of slipping away a little



bit, that the community is really irate about how government is handling it. There's a balance there.

How would you approach the situation of that individual who will be released on society and the judgement there? Does the board have people capable enough to make that kind of medical judgement, to say yes, that person has a right now to go back into the community without their name being given, without everyone targeting them and making their own medical and social judgements on them?

**Dr Sisèl:** You have touched on an underlying human issue which of course affects all of life. Can the board make an adequate decision? I have never been privy to any deliberations of the board. From what I have seen so far as an observer, and from what I've heard of the operations of the board, all possible background of the individual affected, primarily, is given and is brought to the hearing before the board. That includes the clinical psychiatric background, which of course is narrow. It includes the legal background, which is also narrow. It includes the personal history of the individual, almost all the way from birth; his or her present behaviour in the institution: Has he or she refused treatment? Are they willing actually to take on responsibility for their life? There are many factors that are all bearing on that subject, on the decision that you must eventually make.

As I mentioned before to your colleague, I think it's a decision over which we find ourselves in the agony to predict human behaviour in the future. The balance will always be a fine line. As individuals, we agonize over that decision, we bring all the information we possibly can to bear on it, but essentially, in your heart of hearts, you have to make the final decision, and you fall or stand with it. So as in all human things, we're limited, we're finite, but we try to do the best we can, with the Lord's help.

**Mr Curling:** I think there's a role that the board can play. Right now, I see the board playing the role that after the horse has gone through the barn gate, we close the gate and make a decision about the horse out there.

I'll try to describe that analogy in this sense: There are many people who are coming to us in our constituencies who are saying that their son or husband is schizophrenic and is showing signs of violent behaviour. The fact is, nothing can be really done unless the individual does a criminal act before the person can be arrested or put in an institution. I'm not saying that Big Brother must come in and put them in an institution, but by the time the person commits that act, they have gone to a boiling point. Then you are faced, on that board, with making a decision on whether the person goes to jail, or they prove that the person did it without any criminal intent but was mentally deranged at the time.

1110

Do you see the board playing a role in this, of making that kind of recommendation or addressing that

concern? That concern is out there, and it's not being addressed. I don't know why, but it's just not being addressed. Do you see the board playing a role like that?

**Dr Sisèl:** It may not be possible for the board to play that role. It's limited by its jurisdiction. Legally, you cannot exceed the bounds of the act and when you're—

**Mr Curling:** Before you comment on that—I'm sorry to cut you off—I'm talking about making recommendations that those things be done. I'm not saying the board should go into the home and things, but make an observation that these things are coming into the board's lap to make a decision after the act, when the signals were being shown earlier on.

**Dr Sisèl:** In our deliberations and the deliberations of the board as they're already happening, I'm sure these circumstances are to be considered. If they are not, then certainly I would like them to be considered and I would think the board would have a role to play.

**Mr Curling:** I have no further questions.

**The Chair:** Thank you, Mr Curling. There being no further questions, I'd like to thank you very much, Dr Sisèl, for appearing before the committee this morning.

**Dr Sisèl:** Thank you.

DONALD STOCKDALE

**The Chair:** Our next appointee for review this morning is Mr Donald Stockdale. Welcome, Mr Stockdale. If you wish, you may use a few moments to address the committee with some opening comments. If you do not have any opening comments, we will start the rotation with the government members.

**Mr Donald Stockdale:** My only opening comment would be that it is a pleasure for me to be here with you this morning. I look forward to your questions. Thank you.

**The Chair:** Thank you, Mr Stockdale. Dr Frankford.

**Mr Robert Frankford (Scarborough East):** Good morning. Looking at your résumé, you really have quite a lot of experience in this general field of addictions and substance abuse.

**Mr Stockdale:** Yes, the firsthand experience I've had—yes, that's true. I guess it started—I spent 25 years working for the Goodyear tire and rubber company out in Lakeshore in New Toronto. Part of my duties there, as a union member, was to assist our sisters and brothers, members, who had problems with substance abuse. So I've had an opportunity from early in the mid-1950s up until when I left there in 1982 to be working in the field with people with substance abuse problems.

**Mr Frankford:** I guess you've looked at what the Addiction Research Foundation does.

**Mr Stockdale:** Very much so. I've worked with the



ARF on many occasions.

**Mr Frankford:** I think it's fair to say it has a treatment, a clinical role, and it has a research role. In the research document we've got here, there's reference to the work it's done on assessing the extent of problems with alcohol and other types of abuse. The comment I would make, and perhaps you'd like to respond to it, is that it seems a lot of work is done on alcohol; there are figures there on cannabis and other illegal drugs. It seems to me there's perhaps another area, and perhaps you could comment on what you've seen in your work experience: prescribed drugs. I would say there's a lot of misuse or dependence on prescription drugs. I'm not sure if this has ever been much of a mandate of the ARF, but would you comment?

**Mr Stockdale:** Yes, I hope I'm able. I would comment in this particular way, and then you can question me further if I'm not hitting it where exactly you wanted to be.

I've had some concerns. It is changing and it has been changing for the last couple of years. It seems that the newspapers and the radio and the TV want to focus on, for want of a better word, the sexy problems we have in society. For a while there you could hardly turn on the TV or pick up the newspaper without seeing police knocking down the doors of some crack house and arresting a bunch of people. That's well and fine, but the fact is, and the research with the Addiction Research Foundation points it out, the main problem we have in this province and in this country, and probably the world as a whole, is plain old-fashioned alcohol, and that's where the main focus has to be. Not to be saying that we don't have to be concerned with these other drugs, either legal or illegal drugs, because certainly we do; the main focus has to be, in my opinion, around the whole area of alcoholism. That's where the main focus has to be.

In terms of the mandate at the Addiction Research Foundation, I think it's always a balancing act for those folks in terms of whether their emphasis is on research or whether it's on treatment and education. As I come from the field of education, of course those will be some of the things I'll want to work with the board around: How do we expand their education programs around these substance abuse problems? Particularly for me, I think I can pull links from the trade union movement and the wider community to work with ARF and help solve some of these problems we have.

**Mr Frankford:** I was interested in your comment on the media bias and, as you say, the sexy problems. Have you by chance read a book called *Peaceful Measures*, by Bruce Alexander?

**Mr Stockdale:** I'm afraid I missed that one.

**Mr Frankford:** I think it's worth reading. It's a critique of the war on drugs, and it really recommends

a rather different approach. We are actually having a lot of debates in the world at large about legal versus illegal drugs, which seems to have been highlighted by the political convention in Ottawa, where perhaps the use of drugs seems to be accepted or perhaps seen as a piece of wayward youthful behaviour.

Do you have any thoughts about how you would like to direct the ARF into other areas? You mentioned education. Do you think they should be doing more in the way of treatment? As a provincial body, how can it spread out and make sure that treatment is available all across the province?

**Mr Stockdale:** In terms of treatment, I think there has been a change there in the last few years. A lot of us got caught up in the issue of trying to stop people with substance abuse problems going to the United States and trying to save the OHIP system some tax dollars. I think we got caught up in that, and I know that the emphasis now has shifted, because we put some roadblocks up there so there's not that drain on the OHIP system now that there was.

In one of the briefs I wrote on it, my thoughts were that it didn't seem to make a lot of sense that, at the time we were closing hospital beds around the province of Ontario, going on at the same time was the fact that we were shipping people across the border for treatment. So my suggestion in the brief was that what we should be doing is setting up models similar to what was happening in the Humber Memorial Hospital here in Metropolitan Toronto, where there were wings devoted to the treatment of substance abuse. Basically, I think there is a change there and I think that more people are looking at that.

But in terms of the treatment end of it, that's not really an area of expertise for me, that I'm aware of what is out there and what isn't out there. I think more people can be treated without being hospitalized. If you look at the record of AA in terms of a support system, I think it's the finest thing we have out there. Quite frankly, self-help as a phenomenon is growing faster than anything else there is in this country today, and I think we need more of that: support groups that can be working in the community in conjunction with the Addiction Research Foundation and the district health councils. I think those are the two groups that can pull that together.

**The Chair:** Dr Frankford, two more of your colleagues wish to speak and we are down to our last three minutes.

1120

**Mr Hope:** Donald, I was impressed with your CV that I have here because a lot of it is familiar to my own. I guess just in a quicker number of years I moved through the system.

I heard you bring forward the issue about the labour



movement and its work. I come from the CAW. You know the videotape that we did with MuchMusic and trying to get across to our younger viewing audience the issue of substance abuse in our workplaces; it affects productivity.

One of the issues—and it was amazing. It was private members' time when one of the Conservative members mentioned something that I support, you know, the trafficking and all this stuff. I guess those who speak without knowing never know nothing, so I only raise that comment.

But I was interested, and where I would like to focus my attention is with the organization you're moving with, the Addiction Research Foundation. Is the emphasis around prevention and awareness? Do you see your bringing in more awareness? There's a way of solving substance abuse. Whether it be through drugs and alcohol or whether it be through prescriptions, it's proper communication, I know, working with Ronnie Davis and Len Harrison from the CAW around seniors with substance abuse of prescription drugs. I'm just wondering, where do you see your expertise around what you've been doing, what you've been talking about, carrying that forward as far as a preventive medicine, which is much cheaper than to pay for treatment in the US?

**Mr Stockdale:** For sure. I think what's been missing is that I think unfortunately the Addiction Research Foundation has been sitting over there with all their experience and we've been sitting over here trying to do our things over here from the trade union movement and, quite frankly, although I've had a long history of working with them, we haven't come to the point where we're really doing a whole lot of things together.

I have been a guest lecturer with the Addiction Research Foundation in terms of training of addiction counsellors, but that gives me about an hour or something twice a year to sit down with a bunch of people who are going to go out in the field. I'd like to be able to touch a whole lot more people than that.

What I am looking at, and I had an opportunity to sit down and talk to Karen Goldenberg, one of the vice-presidents of the Addiction Research Foundation, for a short time and what we talked about is that, for example, we have over 60,000 members coming into the Ontario Federation of Labour convention in the city of Toronto and the Addiction Research Foundation doesn't have a display. They're not there to tell their story. We have CUPE conventions coming in with 20,000 to 30,000 people. The Addiction Research Foundation doesn't have a display. I can go on and on and on.

What I think has to happen is that—I have some respectability in the trade union movement. I hope to be able to bring the Gord Wilsons of the day together and the Linda Torneys of the day together and the heads of all of these unions to sit down and say: "Look. We're

missing a wonderful opportunity. Yes, we have education programs. Yes, they're good programs, but we need to have a first-line offence here and I think that we can do it better by working on the inside with ARF rather than standing on the outside."

That would be my thing, to set up educational displays and then have a travelling roadshow that goes around and visits in all the communities. ARF does have satellite offices around the country; allow them to hook up. Up to this point in time, most of the focus has just been on the EAP programs, and I think that at times you get entrenched in terms of the working of the program itself and you're not looking at the bigger picture of prevention.

**The Chair:** Thank you, Mr Hope.

**Mr Hope:** Oh, come on, Margaret. Just be nice to me for one second.

**The Chair:** It's 10 and a half minutes and it's—

**Mr Hope:** I had another question.

**The Chair:** I'm only taking direction from the committee. They did want us to proceed in this matter. Mr Curling.

**Mr Curling:** When you were interviewed by—what are they called?—the subcommittee, who are our preliminary interviewers, did you get a preliminary interview before you came into this committee about the job?

**Mr Stockdale:** No, I never had an opportunity. I've been away, out of town on business with the United Way-Centraide in Prince Edward Island for the last—

**Mr Curling:** Again, I think that it's an extremely important board that you will be serving on. Of course, you will be, because they will approve it.

Drugs in all forms have been quite an enemy to human life in the way they destroy life. How would you feel if you found out that marijuana was killing about 7,000 people a year? Would you immediately ban it because it is killing all these people and have nothing to do with it because it's killing 7,000 people in Ontario per year? Would you agree that it continue to be banned?

**Mr Stockdale:** I guess it's kind of hard to answer that kind of hypothetical question, but I'll do my best. I think no matter what kind of substance it is, whether it is marijuana or whether it is saccharin that you put in your tea or coffee, the fact of the matter immediately is that if it has that kind of toll on human life and misery, something would have to be done about it. Certainly, banning the substance would be one of the things that one would have to look at. Hopefully, in my limited knowledge, I wouldn't have to make that decision all by myself.

**Mr Curling:** Alcohol does that. It kills about 7,000 people in Ontario, or related deaths, and we don't really



ban it. As a matter of fact, the government promotes it. The government has its liquor stores where it sells this.

**Interjection:** Oh.

**Mr Curling:** Whether you want to "Oh" or not, that's a fact and we don't face it.

**Mr Hope:** Let's put Prohibition back in place.

**Mr Curling:** The whole thing is either we arrest it or do something about it in itself, because alcohol may have created more costs to society, I would presume, than any other drug.

I know that what I am saying you're quite aware of too. It's how we deal with that. This leads me to the question, while we understand all that, while we know the liquor control board is run by the government and while we know all governments make an enormous amount of tax revenue from alcohol, do you believe then that we should have beer and wine in the corner stores to be sold?

**Mr Stockdale:** No, I don't particularly believe we should have beer and wine in corner stores. That's a personal opinion of mine.

**Mr Curling:** Would you be advocating, coming from this board, that beer and wine in the corner stores should not be sold?

**Mr Stockdale:** That's a personal opinion of mine, yes.

**Mr Curling:** Would you believe, then, that we should close the liquor control board down, stop selling liquor, ban liquor?

**Mr Stockdale:** No, I don't believe that. I think the people have the freedom to choose.

**Mr Curling:** Do you find that contradictory?

**Mr Stockdale:** No.

**Mr Curling:** You don't?

Let's look at tobacco now. It is stated that maybe what they should be doing is raising the minimum age of people purchasing tobacco, maybe to 19. Do you think in that way it would restrict people from buying—minors, they call them. A minor would be another age. We have so many different ages for minors in this province, it's baffling, with some at 15, some at 16, some at 17, 18, 19. Moving that age to 19, do you think it would assist and help in any way for the purchasing of tobacco, people using tobacco, because the minor age would have been moved to 19 and that would be helpful?

**Mr Stockdale:** I'm not sure it would. I think that in the world we live in today illegal drugs are so easily available, they would just circumvent what we were trying to do. I come from a position where I feel that, as adults, we need the freedom of choice, but I think that has to be balanced with the education programs that allow individuals who take up the substance—ie, tobacco or alcohol, whatever it is—to have all the facts.

I've been quite happy to work with CUPE 1000 and Ontario Hydro, where we developed a program in the nuclear division of Ontario Hydro called Making Choices. Making Choices is a three-hour educational program that talks about the gateway drugs—ie, tobacco—the legal drugs, illegal drugs. We give them three hours of information and focus on the point now, as an educated adult, what these drugs may be doing to you and that you have an opportunity to make a choice. Hopefully, if you educate people in the proper way, they'll make the choice that this is something to be avoided.

We've done that program with Ontario Hydro. We're going into our third year now. The program was slated to cover 7,000 people in the nuclear energy department. We've had over 4,000 people in that program from all the nuclear stations in the province of Ontario. I think education's the cornerstone. That's where it's at.

1130

**Mr Curling:** We have a law right now that says we cannot sell tobacco to minors; however, minors can smoke tobacco. Would you think there should be a law in place wherein if someone offers a minor a cigarette, tobacco, a person could be charged?

**Mr Stockdale:** One of the things is that we can pass lots of laws, but how are we going to enforce them? I think before we pass them, we have to make sure that the laws are enforceable, and I don't think you'd ever be able to enforce that.

Your question about the sale of beer and wine in local grocery stores: I don't think that should happen, simply because of the fact that I think the store owners, in most cases—I'm drawing from my personal experience—are powerless to enforce the laws, as they would be in terms of not selling to minors. I go into my local store, and quite frankly, he gets four or five young people in there and he's intimidated by them. I just don't think that is enforceable. I think it's the same thing with the law of somebody giving a cigarette to a minor. I just don't know how you would go about enforcing that.

**Mr Curling:** I'm not trying to put you on the spot in the sense that you are the one who is going to make the laws, but to say the hypocrisy that exists in the society in this respect. They have laws that talk about minors who should not be sold tobacco, and then in the meantime, minors can smoke it. What we see outside a store is that those who are of that age or over the minor age can go in and buy it and then distribute it to all the young people out there, having the same effect. The only difference is that the individual who is buying it is of legal age, but again, it reaches the individual whom they do not want it to reach.

My feeling is, that's hypocrisy. I hope when we start looking at this hypocrisy in the law, I think we can start addressing the real cause and getting down to the

danger that tobacco and substance abuse cause.

Do you have any comment about prescription drugs that have really been abused? What is your feeling about that? The first thing is the tremendous cost to the government to begin with, to any government, or to the system more than the government, because it is the people who pay for all of this. Do you have any views on this, how we could go about controlling this constant abuse of prescription drugs that actually people are addicted to in many ways?

**Mr Stockdale:** I think I'm beginning to sound like a broken record here, because I keep going back to the same thing. Yes, I agree with you, cross-addiction is a big problem. It is now hitting areas that it didn't normally hit, say, 10 or 15 years ago in terms of, for example, a housewife who goes to the doctor and gets a prescription for tranquillizers or whatever. I think there's a terrible need there for education simply because of the fact that we're treated differently.

I, as a Canadian male of mid-age, if I go to my doctor and say to him, "Look, my boss is a real jerk and I'm having a terrible time with my teenaged children and my wife really doesn't understand me any more," 9 times out of 10 what my family doctor does is say: "Look, Don, what you really need to do is get a little bit of time away for yourself. You should go out and play more golf or go and get in a little fishing."

If my wife goes to the doctor and gives exactly the same story, "My husband is a jerk," and so on and so forth, the first thing too many times—not every doctor; I don't want to paint all doctors as the culprit here—it's the doctor who writes a prescription for a drug.

Most people, not being aware of what drugs do to their body, they're not sure of the lifetime of a drug in their system. A tranquillizer in the morning and a glass of wine at supper time may seem very harmless, but they don't seem to understand that the lifetime of those two drugs is going to interact. We have a problem. So education in the community, not only for the doctors but education for all of us, I think is where we have to put our focus.

**Mrs Witmer:** My questions are going to relate to the provincial government's decision not to continue to pay the full cost of Ontario patients accessing a United States facility for treatment. The new rate is about \$200 a day, a rate that you know is certainly too low for most United States private sector hospitals.

I have within my own community, and I know there are many people across this province who have teenagers who are suffering from alcohol and drug addiction, and they are not able to access treatment because we simply don't have the treatment facilities in this province. The government seems to be totally uncommitted or unwilling to make that treatment available. I say that to you because I know it is the absolute truth.

What are you prepared to do in your role in making sure that young people, particularly teenagers, in this province do have access to the programs now, not when they're 30 or 40, because by that time, they're probably at a point in their lives where they've been wandering aimlessly and been supported by the government. What are you prepared to do? That is an area that is so totally neglected by this government.

**Mr Stockdale:** What I would be willing to do is to make my voice heard around the board of the Addiction Research Foundation. I share with you some of your concern, but where we may part company is that I don't think the answer is to be sending our children out of the province to the United States of America. Anything that they can do, we can do just as well if not better. I think we need an auxiliary program to serve our teenagers in this particular country, and in the meantime, for us to get up and running with those programs, I think we need to establish more self-help groups so that these teenagers can come together and support one another in this particular area.

**Mrs Witmer:** Well, I'll tell you that's not enough. I don't want to see our young people go to the United States for treatment either, and I don't believe that should be necessary, but I can tell you that I have had many people in my office and I have received many phone calls, I guess because I originally got involved in a case with a young man in trying to find treatment facilities for him. I'm talking about young people who have to be removed from their environment and go through a much more lengthy program than anything we have available in this province at the present time.

I guess what I'm hearing from you is that you're not aware of the fact that there is a serious problem among our teenagers. I guess that's part of the problem that we're seeing in this province: Nobody wants to recognize it.

**Mr Stockdale:** In my defence, I can tell you this: I'm a father of seven and I brought those children up in the 1960s and 1970s, and quite frankly, I can tell you the firsthand experience in the upper middle class neighbourhood that I live in, in Brampton, with the experience of drugs. I can tell you about a terrible shooting in our high school where my children were students at the particular time, with one daughter trapped on the second floor. I know a lot about the firsthand experiences. That's not the area I work in, but I know of personal experiences.

I can tell you this: I always made my home open, for neighbourhood teenagers to be part of a structure where there was a loving family. Quite frankly, I think that's where it has to start. All of us have to be a living example to our children and to our teenagers, and if we're not, then we're going to have problems. It seems to me that if we can be the kind of example that says, "Here's the kind of lifestyle that I'm living and you can



see that it's a happy, loving relationship that we have in this home," then other people will follow that.

In the area I lived in, there were several boys who were fathers at that time who spent many times coming to our house and talking to me because, as a father figure—they saw the relationship between me and my sons and that's what they were missing in their lives.

I think that too often we kind of think that's some kind of a fairy tale thing we talk about that doesn't happen. I can tell you that in real life experience it does happen. For a lot of these young teenagers who get into a problem, the first thing—not the last thing—they need is someone to put their hands around to say they care about them. That's what they need.

1140

**Mrs Witmer:** I can appreciate that. Certainly, the ideal situation for all children to have is two loving parents and to live in a wonderful community and get the support. I guess the reality is that even for those kids living in a two-parent home in that type of environment, it isn't always enough.

When I talk about young people who are in need of treatment, I talk from my personal experience. I was a secondary school teacher and I was a trustee on a school board. I can tell you I've spent my summer holidays and I've spent my weekends on the phone with parents, because I talk about students and kids that have addiction problems because of sexual abuse that they've suffered in their childhood. Not only do they have the addiction problems; they're suicidal. These are complex problems.

I guess what I'm saying to you is that we do not appear to have in this province at the present time the appropriate facilities to deal with those young people. I would hope you will investigate this problem further, and I would encourage you to do whatever you can to help those young people now.

**Mr Stockdale:** Thank you. I appreciate the direction.

**The Chair:** Thank you, Mr Stockdale, for your appearance before the committee this morning.

**Mr Stockdale:** Thank you very much. It was a pleasure for me to be here.

**The Chair:** Before we invite Mr Gagnon to come forward, members of the committee, I would like some direction from the committee. We were late starting this morning because we were waiting for a quorum, as you know. We have an anomaly this morning with the fact that we are dealing with private members' business in the House and there may or may not be a recorded vote which would require you to attend the House.

We have 15 minutes left right now. We could invite Mr Gagnon and divide the time, five minutes a caucus, or you may wish to come back after the vote. I'm looking for direction from the committee.

**Mr Rosario Marchese (Fort York):** I would

recommend that we do five minutes each.

**Mrs Witmer:** I would be agreeable.

**Mr Curling:** I would be agreeable.

**The Chair:** You're agreeable. All right. Thank you.  
REGENT GAGNON

**The Chair:** Mr Gagnon, we invite you to come before the committee. In view of what I've just said, unless you feel very strongly about making some opening comments to the committee members, you may wish just to use whatever you were going to say in response to some of the questions.

**Mr Regent P. Gagnon:** Thank you for letting me be here.

**The Chair:** All right, and feel very welcome.

**Mr Curling:** Thank you for coming before the committee. Mr Gagnon, you were interviewed by the selection committee of the chair and some other members of the Assessment Review Board.

**Mr Gagnon:** That's correct.

**Mr Curling:** After the interview, did they give you an orientation of what the Assessment Review Board is all about?

**Mr Gagnon:** During the interview, they mentioned some of the aspects of what the Assessment Review Board members do. This was basically part of the interview. Part of the selection process, if you want, was a case to resolve, which was presented to me in writing and which I had to respond to in writing.

**Mr Curling:** Because of our short time, I'm just going to move on to questions without elaborating too much on it. Are you quite familiar with market value assessment and how it works?

**Mr Gagnon:** Generally, yes.

**Mr Curling:** And you're quite familiar, of course, as maybe a taxpayer or a home owner or a tenant, whichever you are, at the impact—it has some impact on you too?

**Mr Gagnon:** Yes.

**Mr Curling:** Where do you live, Mr Gagnon?

**Mr Gagnon:** I live in Clarence township.

**Mr Curling:** If you had lived in Scarborough, where I live, in Scarborough North—the northern part of Scarborough—too, you'd have the kind of impact of what all this market value assessment is doing to people. Do you think it's a fair assessment, what they're doing with assessment today, how they collect assessments from people who are owners?

**Mr Gagnon:** Let me answer you this way, because your question is very complex: I think that the assessments that are made at the present time, under the current law that exists, have to be fair. Now, if there are mistakes, of course it is not fair. But if everyone is assessed using the same yardstick, it should be fair.

**Mr Curling:** It's unfair to you to ask you this question with only five minutes for us to go back and forth, because I strongly believe that the process in place is extremely unfair to some people. I don't want to put you on the spot in that way and I just want you to know it's an unfair system, what is going on at the moment.

**Mr Gagnon:** It reminds me of a question based on my reading of some articles in the *Globe and Mail* from time to time, and I know that people in Scarborough are not very happy with the current situation. However, the proposal that has been put in place may appear to make the current system unfair, I don't know. I don't know enough about it to be able to judge it at this moment. However, as I understand it, my limited understanding of assessment is that—and maybe it's based on where I reside. We have market value, 1988 market value. I consider that to be fair, in my situation anyway.

**Mr Curling:** I presume what is fair for some people is unfair for others. Mayor Joyce Trimmer, the mayor of Scarborough, has advised all the people who are uncomfortable with or feel that the system is unfair to appeal their assessment. What this is going to do to your system and to your case load is just put an unbearable amount of people to be assessed. Do you have any idea of how they should be dealing with that? Are you familiar with what's happening over in Scarborough?

**Mr Gagnon:** I heard about what the mayor of Scarborough has urged people to do. I don't know if it was done in fact. Certainly, it would put a tremendous workload on the Assessment Review Board and how it should be resolved—I would trust that the chair of the board, as well as the experienced members of the board, would devise a way of disposing of it in a fair manner without clogging up the system. But I don't know what the answer is.

**Mr Curling:** I just have one more question. I don't know how my time is—

**The Chair:** Yes, half a minute.

**Mr Curling:** Good. This government has been considered as a backlog government, sometimes not for its own fault, but because of maybe people who want to address wrongs in the justice system. The Ontario Human Rights Commission is backlogged; the Workers' Compensation Board is backlogged; the tribunal of human rights is backlogged. One thousand cases in Scarborough used to be the average that people appealed their assessment roll. That's only a comment; you don't have to comment on this afterwards. In fact, 30,000 people have appealed now to the Assessment Review Board.

I can see you're walking into a board. There's going to be a backlog as far as ever and I just want to wish you well on this. You will be appointed, of course—one, two, three, four, five over there; you will be

appointed. But I'm going to say to you that the task you have ahead of you is tremendous and that's only Scarborough alone.

**Mrs Witmer:** I'd like to take a look at your curriculum vitae. Unfortunately, it was in French and there wasn't a translation provided and I'd really appreciate knowing what background experience you have and what skills you have that make you feel you would have the needed expertise to contribute to this position.

**Mr Gagnon:** Okay, fair question. The reason I sent my curriculum vitae in French is because the ad that I saw appearing last June mentioned something about francophones and bilingualism being asked for, so I said, "Okay, fine, I'll send it in French and then I don't have to say that I write French."

However, the ad specified primarily qualifications as opposed to experience and it referred to "sound judgement, tact and diplomacy; superior analytical ability; strong organizational, administrative and problem-solving skills; highly developed written and oral communication and interpersonal skills; ability to work independently and impartially in highly sensitive situations."

1150

What I've done, in my letter in reply to the advertisement, I refer to these where I have developed some of these skills and also I have stated that clients, because I'm a management consultant, and former colleagues can certainly attest to the fact that I do possess those skills.

**Mrs Witmer:** Please don't misinterpret. I'm pleased that you submitted your curriculum vitae. However, I was surprised and I guess I anticipated that we might have had a translation. I don't know if this committee normally does that or not.

**Mr Gagnon:** Do you want me to give you—

**Mrs Witmer:** No, I just wondered if there was anything in here regarding your experience that we should be aware of that certainly would make you better qualified for this position.

**Mr Gagnon:** I have no direct experience in assessment matters, except my own.

**Mrs Witmer:** And your personal interest.

**Mr Gagnon:** But I have experience in dealing with quasi-judicial bodies, such as the Canadian Human Rights Commission. I have dealt with the Canada Labour Relations Board. I have prepared cases to appear on those either as a witness or as a respondent. I don't know what else. These are the primary ones. I have dealt with the Canadian Human Rights Commission, which is a different body than a tribunal, of course.

**Mrs Witmer:** Yes. Right.

**Mr Gagnon:** As well as the Ontario human rights at one time and the Ontario employment standards at one



time as well. So I have some familiarity with those kinds of proceedings.

**Mrs Witmer:** Okay. What about the report of the Property Tax Working Group of the Fair Tax Commission? Are you familiar with that report that was released in December 1992?

**Mr Gagnon:** I have heard of it, but I have not had a chance to read it. I'm sorry.

**Mrs Witmer:** Part of that report that was released in December 1992 indicated that taxpayers are unclear about their rights of appeal and how to bring an appeal before the Assessment Review Board, and there were some recommendations made. Do you have any comments on that at all?

**Mr Gagnon:** I don't have it in front of me, but it seems that the assessment notice I received mentioned something that if I was not happy with the assessment, I could appeal to the Assessment Review Board and there was a form that's part of it and there is an address. So I would assume that if people want to appeal, at least they are—well, if people read their assessment notice and are not happy, they will read the complete thing and see where they can appeal it. Whether better information or education is required for the general public I don't know. That could be true. I don't know.

**Mrs Witmer:** Thank you.

**The Acting Chair (Mr Alvin Curling):** Mr Marchese, I think you were next.

**Mr Marchese:** I think Mrs Carter was on the list first.

**The Acting Chair:** Or Mrs Carter first.

**Ms Jenny Carter (Peterborough):** I'm sorry. I did put my hand up. I thought Mrs Marland—

**The Acting Chair:** I was going by what I see here. If you take Mr Marchese's position, it's fine.

**Ms Carter:** Anyhow, thank you very much. Mr Gagnon, you certainly seem to have the relevant practical skills. Now, taxes is something that's been very much discussed lately, partly because of the whole market value assessment thing, and also the Fair Tax Commission has been out there finding out what people think. I was just wondering, what do you think the objective of a property tax system is? What are we trying to achieve there?

**Mr Gagnon:** It seems to me this is the only tax base available to municipalities, so what we're trying to achieve is the property owners—let's put it this way; I know there are other groups, but primarily property owners—pay a fair share of what their real estate holdings are as opposed to—

**Ms Carter:** The thing is, under the income tax system that is progressive. We know that people pay according to what they're able to pay, but of course you

can have hard-up people living in big houses and rich people living in small houses and so on.

**Mr Gagnon:** That's correct.

**Ms Carter:** There isn't the same kind of intrinsic fairness here. So what is it really that people are paying for, if you like?

**Mr Gagnon:** Based on my own experience, what I'm paying for primarily is the education system and municipal services, like clearing the snow and picking up my garbage and all these good things that we take for granted. Now, I agree with your comment that some rich people live in small properties that are of low value and some people, for whatever reason, who are of low income live in large properties, and I know this could be a plight for some people. I realize that.

**Ms Carter:** Then, of course, when you look at market value assessment, I believe it was going to tip the balance as between the downtown areas and suburban areas. You could argue that suburban areas cost more because there's more road frontage and so on for each unit. Do you feel that would have been unfair?

**Mr Gagnon:** Maybe or maybe not, because I know that, again based on my experience where I reside, people who want to put in a residential development have to provide the roads and the sewer system to the municipality. The municipality does not pay anything for that kind of infrastructure. Whether it was always like this or it has been something that's fairly recent, I'm not too sure.

I remember last year in Ottawa there were a lot of people, residents as well as businesses, upset in the market area because their assessment went sky-high compared to what it used to be and there was a sigh of relief in some of the well-established suburban areas. They were saying: "I've been paying too much tax for the last 10 years. Can I get reimbursed for it?" There you go.

**The Acting Chair:** Dr Frankford has about one minute.

**Mr Frankford:** I was going to refer to the dispute between the city of Scarborough and the city of Toronto. As you know, each has encouraged an assessment. I think this could well be a challenge to your diplomatic skills, but perhaps I would just make note of something. In our research it says, "A three-member panel of the board began a hearing which will determine the legitimacy of the mass assessment appeals....The board has the power to dismiss the appeals if it determines they're frivolous." Maybe this is not going to require your diplomatic skills.

**Mr Gagnon:** Hopefully, I will not be one of those members.

**The Acting Chair:** Thank you very much, Mr Gagnon, for coming before us with your presentation. I will pass the chair over to the real Chair.

**The Chair:** Thank you very much, Mr Gagnon, for appearing before the committee.

Would you like to move a motion to approve the appointments this morning, either individually or collectively? What is the direction of the committee, please? Maybe we'll just go through them individually. It seems to be easier.

Mr Hope, are you moving the appointment of Dr Sisèl?

**Mr Hope:** Absolutely.

**The Chair:** All in favour of the appointment of Dr Sisèl? Opposed, if any?

The opposition parties, you may either vote in favour or opposed. If you do not wish to vote, you have to leave your desk. This is in the standing orders.

**Mr Curling:** Is this a new one now, Madam Chair?

**The Chair:** No, it's not new. It's in the standing orders.

**Mr Hope:** It's just somebody finally read the rules.

**The Chair:** We would ask that if you wish to abstain, you have to leave your seat.

**Mr Hope:** This is your chance to play a role in government.

**The Chair:** We're in the middle of the vote and we have taken the vote in favour of Dr Sisèl. I'm now taking the vote opposed to Dr Sisèl's appointment to the Ontario Criminal Code Review Board.

**Mr Marchese:** They were in support.

**The Chair:** Are you abstaining from voting?

**Mr Curling:** Abstaining. Should I leave the floor? I have to leave the—

**The Chair:** You have to leave the table, just while we finish the vote then, if you're abstaining.

The next vote is on the appointment of Mr Donald Stockdale to the Alcoholism and Drug Addiction Research Foundation.

**Mr Hope:** So moved.

**The Chair:** Moved by Mr Hope. Those in favour of this appointment? Those opposed? Not seeing any—

Finally, there is the appointment of Mr Regent Gagnon as a member of the Assessment Review Board.

**Mr Hope:** So moved.

**The Chair:** Moved by Mr Hope. Those in favour of this appointment? Those opposed? Not seeing any, that motion is carried.

**Mr Hope:** I should sit on this committee more, Margaret. I enjoyed this.

**The Chair:** The subcommittee was to meet this morning. Unfortunately, one member of the subcommittee is not available at this time. I would respectfully suggest to the other two members who are here that if it is possible for your schedule, we would like to reschedule it to 3:30 this afternoon or immediately following routine proceedings. Is that possible for Mr Curling?

**Mr Curling:** How long would it be? Just about 10 minutes?

**The Chair:** I think it will only be 5 or 10 minutes at the most. Room 111 is Mr Forsyth's old office on the main floor. Is that all right, Mr Curling?

**Mr Curling:** Immediately after question period? I have a 3:30.

**The Chair:** You just go right to room 111 immediately after question period. That would be great. I appreciate the cooperation. This meeting stands adjourned.

The committee adjourned at 1200.



## CONTENTS

Wednesday 9 June 1993

<b>Subcommittee report; committee budget</b> .....	A-67
<b>Appointments review</b> .....	A-67
Eric Sisèl .....	A-67
Donald Stockdale .....	A-71
Regent Gagnon .....	A-76

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Acting Chair / Président suppléant:** Curling, Alvin (Scarborough North/-Nord L)
- Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- Cleary, John C. (Cornwall L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Hope, Randy R. (Chatham-Kent ND) for Mr Mammoliti

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service



ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 16 June 1993

Standing committee on  
government agencies

Appointments review



# Journal des débats (Hansard)

Mercredi 16 juin 1993

Comité permanent des  
organismes gouvernementaux

Révision des nominations

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 16 June 1993

The committee met at 1005 in room 228.

## SUBCOMMITTEE REPORT

**The Chair (Mrs Margaret Marland):** Good morning. The first order of business is to approve the subcommittee report on committee business.

**Mr David Pond:** Just a brief warning: As members know, the subcommittee usually gives me about 13 days' notice before it chooses appointees. Mr Waters knows exactly what I'm going to say. This time, through no fault of the subcommittee at all, we're only getting seven days' notice. I'm just warning you, there's no way we can prepare the usual full package for next Wednesday. You'll get something from us for each appointee but not the full package. It just won't be physically possible.

**The Chair:** So which subcommittee report—

**Clerk of the Committee (Ms Lynn Mellor):** This is the one.

**The Chair:** All right, if somebody would like to move it.

**Mr Daniel Waters (Muskoka-Georgian Bay):** I'll move it.

**The Chair:** Thank you, Mr Waters. All in favour? Thank you.

## APPOINTMENTS REVIEW

Consideration of intended appointments.

SUSAN COPELAND

**The Chair:** I would like to welcome Susan Copeland. Would you like to come forward and be comfortable. Ms Copeland, if you wish to address the committee briefly with some opening comments, you may, or we may just start in rotation with the members of the committee asking you questions.

**Mrs Susan Copeland:** You may start with asking questions.

**The Chair:** All right, thank you.

**Mr John C. Cleary (Cornwall):** Welcome to the committee, Susan. I guess one of the things that I hear a lot about is the backlog for the appeal process. Would you like to comment on that?

**Mrs Copeland:** The appeal process at the Workers' Compensation Board?

**Mr Cleary:** Yes, the backlog.

**Mrs Copeland:** I don't know that I can comment on their backlog. I do understand that they do have so many days after they hear a hearing to come up with a decision from the hearings process. Are you talking about a backlog in hearings or a backlog in adjudication?

**Mr Cleary:** I am talking about a few incidents that I've been dealing with where a member has been appealing his claim—this has been going on for a number of years—and they tell me once he finalizes the papers, then it could be up to two years before he's heard.

**Mrs Copeland:** To my knowledge, I don't know that is the norm with the board. My experience has been that the backlog has not been that lengthy.

**Mr Cleary:** The other thing that I guess I'd like to talk to you about—and we're hearing more and more about it all the time—is stress, in many ways. Would you like to comment on that, because I imagine that you're going to be having lots of dealings.

**Mrs Copeland:** With regard to stress in the workplace, I believe it would have to be case by case, and it would have to be work-related in order to be compensable. That's my opinion.

**Mr Cleary:** Those are my questions.

**The Chair:** Are there any questions from—

**Mr Allan K. McLean (Simcoe East):** Ms Witmer is just about ready.

**The Chair:** We could change the rotation, if you'd like, and go to the government members first and come back.

**Mrs Elizabeth Witmer (Waterloo North):** If you wouldn't mind. I am almost ready, but I just want to review this for a second.

**The Chair:** That's fine. With pleasure.

**Mr George Mammoliti (Yorkview):** Welcome, Susan. I note that you've had some experience in workers' compensation claims in the past. There are a couple of questions that I wish to ask. One would be what experience you think you can bring to the board and how useful that experience will be in terms of—well, we'll talk about the positive experience right now. What can you bring to the board that will improve it? That's the way I want to ask it.

**Mrs Copeland:** As you can tell by my work experience, I have been the representative of an employer and have gone before WCAT. I feel that I have represented both employer and workers, so I feel that I have both sides. Although I have been with an employer, we have represented both at WCAT. I think I have a broad perspective and knowledge. I don't know that I can improve the board, but I certainly feel that I can participate in its already very recognizable—

**Mr Mammoliti:** In speaking to them, one of the biggest concerns that employers have is that when an



individual perhaps appeals a claim of some sort, whether it's a pension or whether it's a decision that was made, one of the biggest things that employers are concerned about is doctors and the types of doctors' letters and the credibility of a lot of doctors. Would you agree with some of those employers that perhaps there are some doctors who don't necessarily give adequate information, which would lead to perhaps false pensions or false claims? Would you agree with a lot of those employers?

**Mrs Copeland:** I don't know that I would agree or disagree. I don't know that I could comment on the qualifications of any physician in Ontario. What I do believe is that employers require medical information and should pursue obtaining the information they require. I don't think to judge a physician—

**Mr Mammoliti:** That's fine. The last question is on the office of the worker adviser. I've had some particular problems with the worker adviser office in that when we refer certain constituents to the worker adviser office, it refers them right back. The backlog is so huge that it's actually hurting claimants and their right to be heard, even at the board level.

Do you think there's some relevance between your position and perhaps improving even the worker adviser's office somehow, or no? Do you think it's out of your hands?

**Mrs Copeland:** I'm not that familiar. I have knowledge of the worker adviser's office and what it does. I'm really not familiar with their backlog in hearing workers. I really can't comment on how WCAT could improve their workings, how this board could improve on that agency.

**Mr Waters:** Good morning, Mrs Copeland. I guess I'm a firm believer in trying to avoid WCAT. I see the WCAT as the very last step in a long, long process sometimes that isn't needed.

You've had an extensive background, I feel, working with compensation from a lot of different angles, and I'd like to hear your opinion as to whether or not we should be looking at resolving a lot of these. We're talking about the fact that there's a backlog at WCAT, so should we not be resolving them, or are a lot of them resolvable before WCAT? I wouldn't mind your opinions on that.

**Mrs Copeland:** I think that a lot of cases are resolvable at the Workers' Compensation Board level. There are various levels of review before it even gets to a hearing at the board, so WCAT is the external agency which reviews those decisions after the board has had its levels of review. My opinion is that WCAT serves a very good purpose in giving an outside-the-board-itself review of the decisions.

**Mr Waters:** I'm going to go offtrack, because with all your experience, I think WCAT is a beast unto itself

that, as we've said, is the opportunity of last resort, I guess, and final decision. But I do have some concerns about WCB, and I'll give you a case.

A young woman in my riding, 15 years of age at the time, working in a small rural country store, was working with the meat grinder. They took the grinder off her arm in Toronto. She rode for over two hours with that grinder on her arm. Her compensation level for life was set at the rate of pay that she was receiving as a 15-year-old student in a small country store.

I know I hear a lot about costs of compensation, but not only did this meat grinder destroy her potential earning ability, her ability to go and do what she would have wanted to do at the university level to become a skilled person, but it also destroyed her social life. I believe that compensation should take those things into consideration and at this point doesn't. I'd like your opinion on that. Should this type of thing be considered?

**Mrs Copeland:** Well, that's a case I can't really comment on without knowing all the specifics. However, I do believe that outside of financial compensation, the board certainly, for severe and critical injuries, or all injuries but specifically a case like that, is very much willing to rehabilitate and provide any future loss of career along with the financial—

**Mr Waters:** But in this case you're looking at a kid of 15. What would her career have been? You're looking at a loss of potential, but how do you even know what the potential was? If that was to come before WCAT—and if I have my way, one of these days it will—

**Mr James J. Bradley (St Catharines):** It had better be within the next two years.

1020

**Mr Waters:** Good morning. It's nice to see you.

I guess I'm concerned about—as a number of employers want to see, they claim—some fairness in the system. I think that there's been a lack of fairness also to a large number of injured people, and I guess what I'm after is a system that is fair, just and efficient. If there were some efficiencies, what would you suggest as efficiencies within the board to make it work better so that you wouldn't have the backlog?

**Mrs Copeland:** That's a big question. Within the board?

**Mr Waters:** That's where it all starts and you end up with a backlog because of the inefficiencies or the inability of the board to deal with its problems, historically. Now, I know that there are some changes going through at the board at this time that are very promising under the new director or under the new chair, but I wouldn't mind hearing, because of your experience with the board, if you think there's something we're missing.

**Mrs Copeland:** Certainly there can be improvements

in all areas of any organization, and specifically the board. It deals with a lot of controversy. I have dealt with the board for many years. I have been frustrated with them and I've also been very happy with them, and it depends on how hard an employer or a worker works with the board. I think they have a lot to offer. I do believe that they certainly have areas that they can improve on in efficiency and their timeliness, and I don't presume to or I can't presume to solve their problems or come up with solutions at this time.

**The Chair:** Thank you, Mrs Copeland, Mr Waters. Mrs Witmer?

**Mrs Witmer:** Thank you very much. Mrs Copeland, I notice that you applied on your own initiative and I guess I would just ask you why you feel you would like to serve in this capacity on this particular tribunal.

**Mrs Copeland:** I'm having a change of career this year and I'm looking for an alternative. I have been involved in the workers' compensation area since about 1980 and I feel that I have a good knowledge base of the process. I have had dealings with WCAT, and I very much like its agency and its organization. I feel I can bring a lot of knowledge to that organization.

**Mrs Witmer:** You indicated now that you've had dealings with the WCAT and obviously you felt that it has functioned effectively. I think you said something positive. How and why do you think it is functioning effectively?

**Mrs Copeland:** I believe with the tripartite panel that it serves both the worker community and the employer community. It has written decisions, they're published, and I feel that both communities can draw on the experience and the past decisions and it's a very fair and equitable manner of dealing with humans.

**Mrs Witmer:** So you feel that it is functioning as effectively as it can. Would you have any changes that you would recommend?

**Mrs Copeland:** Being an outsider at this point, I don't recommend, I'm not in a position to recommend changes. I may in the future if I have the opportunity to be there.

**Mrs Witmer:** Okay. I'd like to go back. I know that Mr Cleary did discuss and ask some questions of you concerning the stress and the fact as to whether or not chronic stress should be compensable. As you probably know, this is a very contentious issue, as is almost every other issue related to the WCB. As Labour critic I can tell you that I think both employers and employees throughout the province do feel there is a need to make some very drastic changes to WCB in order that it will more effectively meet the needs of the employee and the employer communities.

Getting back to the chronic stress and the fact as to whether or not it should be compensable, what's your immediate reaction regarding stress? Should we be

compensating for chronic stress? What is your definition of chronic stress? What do you perceive should be compensable?

**Mrs Copeland:** I really feel that's a very difficult question with stress today, because there are many definitions of stress. There's acute stress and traumatic stress and chronic stress, and once again, I believe it should be on a case-by-case basis. It all depends on where the stress came from, the causation, if it's work-related. I believe that we should be hearing stress cases and dealing with them on a case-by-case basis. At this point, I'm not prepared to give you a blanket, "All stress should be compensable," or "All stress should not be compensable." I do believe it's individual.

**Mrs Witmer:** Would you consider such a thing as a demotion stress?

**Mrs Copeland:** It could, and it could not. It would all depend, once again, on the causation factors of that individual case.

**Mrs Witmer:** Because obviously, that's an issue that the WCB is going to have to continue to wrestle with. As you know, the cost of funding the WCB is growing at an alarming rate. We have an \$11-billion unfunded liability. Obviously, if we add stress and we start compensating everybody for everything, the system is going to get to the point where there won't be any money left to pay people in the future. We already know there's \$11 billion promised that we don't have funds for. Obviously, it's something the WCAT is going to probably get involved in, depending on what the definition is going to be. Do you have any other comments on that particular policy of compensating for chronic stress?

**Mrs Copeland:** I really don't think I could add to my previous comment.

**The Chair:** Thank you, Mrs Copeland, for appearing before the committee this morning.

LYN GUENTHER

**The Chair:** I'd like to welcome Dr Lyn Guenther. Good morning, Dr Guenther. You're welcome to address the committee briefly with some opening comments if you wish, or we may just start into rotation of questions.

**Dr Lyn Guenther:** Good morning. I'm a dermatologist from London. For the past two years, I've been chair of the division of dermatology at Western, and I am also in private practice in London.

**Mr Robert Frankford (Scarborough East):** Good morning and welcome. I think this is an extremely important committee, because it really can determine patterns of prescription drug use which are costing hundreds of millions of dollars right now, and I believe there's considerable scope for more rational and appropriate use of drugs. Do you agree?



**Dr Guenther:** I don't think there's much question about what you've said. I definitely agree with you.

**Mr Frankford:** The mandate of the committee is really quite broad. It's to advise the minister on the operation of the drug benefit program and drug-related matters, recommend educational, scientific information for distribution to health professionals and the general public and facilitate communication between the ministry and the professional organizations.

Certainly, in my political life now I'm aware of the impact that its decisions often make, particularly around the withdrawal of drugs. I trust they're always defensible on clinical grounds, but in the realities of political life, people come in quite often when they find their drug has been withdrawn and say, "What is all this and who is this faceless committee or this ministry that doesn't care about my health and is doing this to me?"

I think that the communication is extremely important, both to the practitioners and to the public. Do you have any thoughts about that?

1030

**Dr Guenther:** Ideally, it would be nice to provide everything to everybody, but unfortunately we do not live in those times. There's only a certain amount of money in the pot and we therefore have to look at the most effective and best way of using our resources that we have. I think it's a difficult decision. I was not part of the decisions because I have not been part of the committee as far as what was delisted from my patients.

Yes, there's an outcry when you haven't received things. It's always difficult, when people have received things, to take them away, no matter what they are. If you're used to receiving something, it's a very difficult problem for them and they don't take kindly to things being delisted. But I think, from my understanding, there are drugs that perhaps need to be delisted, perhaps need to be added too. I think it's a mandate of the committee to decide what most optimal, efficacious therapies should be included.

**Mr Frankford:** It seems to me that ideally the profession is so well informed that it's using the most rational range of resources. Perhaps as an example, I'm sure you're aware of the Medical Letter, but it seems to me that it's not universally subscribed to. I think that if resources like the Medical Letter, which comes out of the US, were used routinely by physicians—and perhaps the committee could either encourage this or perhaps even be developing its own regular newsletters or other information sources—we would all be much better off.

**Dr Guenther:** I think there certainly is some need for optimizing both physicians' methods of prescribing and patients' compliance, and not doctor-shopping, not always taking their medications, taking medications that could interact with other medications and not informing their physicians what they are on. I think there certainly

is a definite need for optimizing treatment and care of patients in that regard.

**Mr Frankford:** It seems to me there could be many advantages to stopping having a hard copy formulary and turning it into a computer electronic formulary. For one, it could be updated all the time instead of waiting for six months, which is not always six months, and secondly, one could start to do some interesting things around interactions.

**Dr Guenther:** I totally agree. The way of the future really is computers. As you're probably aware, most physicians, effective this July, will be having computers in their offices just from the OHIP billing point of view. There will be a penalty imposed if they submit it on hard copy rather than computer copy. I think that, certainly from a physician's point of view, in my practice would be beneficial. If there was some way of tracking what patients were on, you could look up and see what they were on, because frequently they don't know and you can't always get hold of the family doctor to find out what they're on.

**The Chair:** Dr Frankford, two other of your colleagues wish to speak, and you're halfway through the time. Mr Mammoliti.

**Mr Mammoliti:** Let's talk about drug addicts for a second, the illicit drug addicts, not the prescription drug addicts. I want to talk a little bit about methadone treatment that is currently under the Ontario drug program. What do you think about the methadone treatment? Should we continue such treatment? It's not a cure; it's therapeutic, from what I can gather. Should we continue that methadone treatment or should we be looking in another direction?

**Dr Guenther:** I actually don't have a comment on that. In my practice, being dermatology, I have no experience with the methadone treatment and I therefore can't comment.

**Mr Mammoliti:** So there's no point in me asking whether or not we should legalize drugs and give out prescription drugs as some other countries do. I'll yield to somebody else, Madam Chair.

**Ms Margaret H. Harrington (Niagara Falls):** I have a couple of questions. First, through our constituency offices, we have had occasion to ask doctors to write letters with regard to a special case for a drug which is not on the formulary. Is that called section 8?

**Dr Guenther:** That's correct.

**Ms Harrington:** I have found, in one particular case anyway, that the doctor was very reluctant to do that. He said it would take too much time and effort for him to take part in that and actually write the letter. I wanted to ask you to comment on that.

I'll go ahead and also make my comment about the future of our system. First of all, I believe there are too many drugs on it. We have to have effective manage-



ment of the whole system, a more rational system, and part of that will entail that people have health care more in their own hands. Because individuals are so different, I might be one who says, "Less is better for me," always taking, say, a prescription and trying to use the least possible, that type of thing; another person might say, "More is better," and take that angle.

What I'm getting to is that an education program is very important for people, to try to use some knowledge from physicians as well as from other sources to try and make some of those decisions themselves. When a drug is taken off the formulary, the rationale for that should be made public so that the consumers themselves would understand more about health care and about drugs and be able to be part of a rational system, because it is their tax dollars, and if there is waste, it is hurting everyone.

I'd like you to comment on those two questions. The first was about section 8 and the doctor's reluctance.

**Dr Guenther:** I think all of us in busy practice are always burdened by letters for this and that. When you are requesting a drug for a patient, and I've requested drugs for section 8, you write your letter, you put the appropriate data; there's a list of various things that should be included. I think you have to act as your patient's advocate; however, the system has to be friendly enough and easy enough to use from the physician's point of view so that it's not taking one or two hours to get a drug for a patient; you're also having to make several long distance calls, at the physician's expense, to get a drug for a patient. So I think the system has to be such that it's simple, doesn't take a lot of the physician's time.

**Ms Harrington:** So you think changes could be made right there.

**Dr Guenther:** I think there is potential for some changes. Right now, I'm not on the committee. I am not privy to their method of accessing medication.

**Ms Harrington:** My other question was about the education of why drugs are off the formulary or on.

**Dr Guenther:** Education certainly is something that can be improved. One thing you mentioned was that a patient might feel they only need a few days of a drug, and perhaps antibiotics would be a prime example. A patient might feel better after a couple of days of taking an antibiotic and then feel they no longer had to take the antibiotic because they're cured; however, they'll relapse a week later and might be resistant to that antibiotic, and if they had taken the medication for the full prescribed course, 7 to 10 days, then they would not have had that problem.

So I think there's education to the patient. I know when I prescribe antibiotics, if it's for a specific infection, then I will say, "Even though you feel better, make sure you take the full course; otherwise you could

relapse." I think there's also potential for the pharmacist to be involved with patient education in addition to physicians, the committee nurses.

**Ms Harrington:** I think the committee has a very important role in the future of health care.

**The Chair:** There isn't anyone here at the moment from the official opposition, so we'll go to you, Mr McLean, and move back to Mr Cleary.

1040

**Mr McLean:** I want to welcome you to the committee and thank you for offering your services. I see you're a very busy lady.

My question has to do with the formulary and generic drugs. I'd like to know for my own personal purposes about some of the generic drugs that are taken off the list and substituted. How does that system work?

**Dr Guenther:** As I mentioned, right now I'm not on the committee, so I'm not involved with making the decisions. My understanding is that the drugs are evaluated in regard to their bioavailability and their efficacy and that the active drugs have to have the same maximum concentration. I guess the differences can be about 80% to 125% of the parent patented drug. So they have to show that they're efficacious and also safe and can therefore be interchanged.

Some of the "inert" ingredients could be different. That could potentially lead to small problems. I can only speak from a dermalogic point of view, where if you have a cream with perhaps a preservative which is inert, some patients are allergic to it. But with that minor exception, if the drug is equivalent, then it is equivalent with regard to the bioavailability of the active ingredient.

**Mr McLean:** Some time ago the minister made an announcement with regard to the nine pilot projects aimed at improving the quality of prescription drug treatment. What role do you see playing in that as a member of the committee?

**Dr Guenther:** My understanding of the committee is that the committee acts as an advisory, independent, expert body to the minister, so if the minister requests the committee to take on various commitments, then the committee would be looking at those issues.

**Mr McLean:** In some cases I have seen, doctors have written prescriptions for 100 pills and the pharmacist has said, "I can't give you them all at once; I'll give you 25 at a time," thereby getting a fee for each repeat that's filled. Does your committee oversee any of that type of practice?

**Dr Guenther:** I am not on the committee right now and I have not had its welcome package with all of its mandates, so I cannot comment on that.

**Mr McLean:** But in your own practice, would you observe that is a common practice in some areas?



**Dr Guenther:** It's not that common. Generally, what I have found is that if you prescribe medication for a patient, occasionally the pharmacist doesn't have enough in stock and can't get it from Drug Trading, which is sort of the warehouse for the medication. If they don't have it in stock and the patient needs it right away, they'll give them what they have in their pharmacy, but then generally they will fill the rest of the bulk of the prescription. I don't think it's a general practice, certainly not that I've seen in my practice, that pharmacists are trying to jack up their prescriptions.

**Mr McLean:** There are now becoming warehouses for drugs. There's a large one opening in Toronto, I have observed from the news, where you can send in and get your prescription filled. What are your views on that? How are you going to keep control of the amount of drugs someone will be able to get by sending it in and getting it back in the mail? Could you get over-prescribed, or what about somebody looking for extra?

**Dr Guenther:** This is news to me, this mail-in prescription order you are referring to. In order to get medication you have to have a signed prescription by a physician or a dentist; therefore, if the physician says you should only have X quantity, you can't photocopy your thing and send it to several different pharmacists. You have to have the original signed and sent in.

There also is a computer network system which is being developed to look at people, especially those who are recipients of the Ontario drug benefit program. I think that would certainly help eliminate some of the duplication of services.

**Mrs Witmer:** It's a pleasure to have you here. It's always nice to see somebody from Western, my own alma mater, and certainly I am impressed with your qualifications.

I'd like to take a look at the changes being contemplated to the Ontario drug benefit plan. One of the things that's now happened, I guess as of yesterday, is that the dispensing fee of \$6.47 for prescribed drugs is going to continue in place. Do you have any comments? The government has decided this will indeed occur. Now the pharmacists are saying that's too low. What comments do you have?

**Dr Guenther:** I don't have the information to make a valid comment about how much it actually costs the pharmacist to stock the drug and whether even \$6.40 is a valid figure to begin with. I think you have to take a number of different factors into consideration: the pharmacists' expenses, carrying costs, the costs of the medication, and whether that is a valid fee. I can't comment because I don't know how that was arrived at in the first place.

**Mrs Witmer:** One of the other areas the government is suggesting some changes will be made in will be the possibility that there are going to be user fees intro-

duced for prescription drugs. As you probably know, the United Senior Citizens of Ontario certainly are very critical of this measure and the fact that they may be asked to contribute towards the cost of their prescriptions. Do you have any comments on that method of reducing the cost?

**Dr Guenther:** Certainly we have to look at ways of decreasing the cost of drugs, because the cost has been escalating, and I don't think we can afford the increases we've had to date. I understand that is one of the issues they're looking at. Again, if you've been used to receiving something free, and you've waited till age 65, you've finally made your age 65 and then they take away what you've been looking for, that's difficult, no matter what issues you discuss around it, no matter what explanation you give. It's a benefit they waited to get and you're now taking it away. But I think it's something that has to be looked at, because there isn't enough money in the pot to continue at this rate.

**Mrs Witmer:** Thank you very much. I wish you well in your career. It appears you're very successful.

**Mr Cleary:** Welcome, doctor. I guess the role of the DQTC has been changed by the NDP and its recommendations are less important than unilateral decisions by government. What drugs over the counter and drugs of nutritional products should be included in the formulary?

**Dr Guenther:** Was that a question you were asking?

**Mr Cleary:** Yes, nutritional drugs, products, that should be included in the formulary.

**Dr Guenther:** Do I think they should be included?

**Mr Cleary:** Yes.

**Dr Guenther:** I think that's a decision that the committee will have to decide.

**Mr Cleary:** Should government make these unilateral decisions?

**Dr Guenther:** I think the time people object to government making unilateral decisions is when unilateral decisions are made without advice from an independent group particularly. If they go ahead on their own initiative without listening to a number of different sectors that are involved by their decision, that's when you have the outcries.

**Mr Cleary:** Are you familiar with the government's recent announcement about possible changes to the Ontario drug plan?

**Dr Guenther:** I have some awareness.

**Mr Cleary:** Are you in favour of what's possibly coming?

**Dr Guenther:** Not being on the committee, one of the things I understand is that there's going to be a relook at the over-the-counter medications that are currently listed. However, when you consider delisting them, you also have to look to see if delisting them is



going to be more expensive to the plan. You might, for example, delist benzoyl peroxide for acne and then prescribe something more expensive because it's now on the plan whereas the drug benzoyl peroxide is no longer on the plan. I think you have to take into account not only the efficacy of the medication but also what the alternative would be if it were delisted.

**Mr Cleary:** Do you have any comments on how many drugs might be delisted?

**Dr Guenther:** I don't have a number.

**Mr Cleary:** You never heard a number?

**Dr Guenther:** I've heard things thrown around. I don't know; do you have the number?

**Mr Cleary:** Only what I hear. A hint has been around that there'd be a couple of hundred. I don't know whether that's true or not.

**Dr Guenther:** Not being on the committee, I have no idea.

1050

**The Chair:** Mr Curling, do you have any questions?

**Mr Alvin Curling (Scarborough North):** Doctor, I just arrived. I don't have a question for you, but as I was glancing at this Drug Quality and Therapeutics Committee on which you serve, the concern lately, of course, is where we talk about quality. There are all types of drugs on the market. Normally one hears that if you want to find drugs, just open anybody's cupboard. All those prescription drugs that are sitting there, thousands and thousands of them not used or outdated.

Do you have any concerns about that? With the kind of concerns that you have, what type of thing do you think the government should be doing in controlling these kinds of drugs that are prescribed so easily out there? I know one is quality. If there were quality stuff, people will be taking them. It seems to me that they are being given—some would say that even when they don't take it, they improve. Do you have any comments on that aspect of things?

**Dr Guenther:** I think there is a concern about drugs not being taken appropriately, about people hoarding drugs, and there also is the problem that if you do have a cupboard full of different medications and you feel ill and you don't know which one to take when you feel ill, so there is a potential for actually making your patient sick, or people becoming sick, because they're taking something that was stacked up in their closet. Some medications also can have problems if you use them past the outdated date that's listed on the bottle or on the package. Also there's potential for drug interactions and a potential for drug overdose by having closets full of different medications.

One of the problems you run into is that if you prescribe a small quantity to people, you have this dispensing fee that was mentioned. If you prescribe a small quantity to get around that potential problem, then

you might be jacking up the price because you're having to dispense it several times. I think in certain cases there might be a role for a small trial quantity and then giving a larger quantity once the patient has shown he can take the medication.

**Mr Curling:** Quality and quantity, I presume, almost go hand in hand, in a way.

**Dr Guenther:** Well, not necessarily.

**Mr Curling:** Quality and quantity would be a concern of the government because it would lead to cost eventually. If it's good quality, I presume it to be effective, and as they're educated about the drug, people would be able to understand that this would enhance their recovery from any medical problems that they've been having.

I don't want to put you on the spot with your colleagues, but do you think there's a bit of abuse on behalf of doctors in the sense of the amount of prescribed drugs that are being given out?

**Dr Guenther:** You can say, is it an abuse of a physician? Certainly, it takes the physicians time to write the prescription out, so they're not really getting anything by doing that, except perhaps, I guess you might say, the patient came in demanding a medication and then they gave them a prescription to keep them quiet, but hopefully that doesn't happen frequently.

**Mr Curling:** I have no more questions, but I want to thank you for coming in. Your qualifications stand you in good stead in the sense that I hope the advice you give to the government would help the province on the whole in saving funds and in saving lives.

**The Chair:** Thank you, Mr Curling. You actually have three and a half minutes left, and Ms Harrington has a question.

**Mr Curling:** I'm such a kind, generous, considerate person. Maybe she can remember next time.

**Ms Harrington:** I wanted to bring to your attention a leaflet that is from the CAW, the Canadian Auto Workers, in St Catharines to their seniors. What it says is that for some seniors, this is a loaded gun; that is, having too many pills. They're actually having workshops for a maximum of 15 people at a time talking about the wise use of medication. I'm wondering if you would be able to promote something like this more widely. Would you be in favour of doing that and helping to do that?

**Dr Guenther:** I think their initiative is excellent. Yes, certainly it would be nice to see more people taking an active role and I think it's great that the unions are taking that. Whether I personally would be the one going around promoting this thing, I'm in favour of it, but I can't say that personally I would be going around doing that.

**Ms Harrington:** Okay. I'm not exactly sure if that's within the mandate of the committee, but certainly as



part of the medical system and leadership in this province, I would think that you could lend a voice one way or the other.

**Dr Guenther:** Certainly, I would be in support, from a personal point of view, of that initiative and I would encourage other people to take initiatives in a similar fashion. It's excellent.

**Mr Mammoliti:** Very quickly, to touch on something that my friend Mr McLean talked about in reference to mail order drug companies, recently there's been some controversy about a company called Meditrust. You're not familiar with it?

**Dr Guenther:** I'm not familiar with Meditrust.

**Mr Mammoliti:** I know for a fact that receiving and getting prescription drugs from this company saves you a lot of money, a quarter of the price that it would cost you to go to a regular pharmacy. Don't you think the province should be looking at these types of savings for things like the Ontario drug benefit program? I can already estimate savings of millions of dollars if we were to look at something like this, recognizing of course that there would be some problems with the mail order type of system.

Dispensement fees have always been a problem. Pharmacists can literally charge you basically whatever they want for a drug. This would be a saving that people would, I think, appreciate. That would be within your mandate, wouldn't it, to look at something like this for the potential savings to government?

**Dr Guenther:** I can't comment whether that's within the mandate, having not received the official briefing.

**The Chair:** Mr Mammoliti, we're just about out of time.

**Mr Mammoliti:** But zeroing in on this, it's very important.

**The Chair:** No, I think a courtesy was extended to your caucus to come back in rotation, a courtesy extended by the official opposition. I'd like to thank you, Dr Guenther, for appearing before the committee this morning.

RAHUL MANCHANDA

**The Chair:** I'd like to welcome Dr Manchanda to the committee. Perhaps you wish to make a brief opening comment, or we will just start in rotation with the committee members to talk to you about your appointment this morning.

**Dr Rahul Manchanda:** My name is Rahul Manchanda. I was born and brought up in India. I've been practising psychiatry for just over 20 years, six years of which was in India, six in the United Kingdom, and I have been in Canada for just over eight years now.

**Mr McLean:** Welcome, sir. Are you familiar with the Review Board for Psychiatric Facilities?

**Dr Manchanda:** Yes, sir. I worked for four years in

St Thomas Psychiatric Hospital between 1984 and 1988 and had the opportunity of appearing before the review board on several occasions.

**Mr McLean:** What about the other facilities, such as Whitby and Penetanguishene?

**Dr Manchanda:** No, I've only worked in two hospitals in Canada, St Thomas Psychiatric Hospital, and in University Hospital for the past four and a half years.

**Mr McLean:** I observe that a lot of the appeals by patients of involuntary committals, when they appeal, there's about 80%, in the cases, that are revoked. How often would those appeals be heard with those individuals? Can you appeal once a year, or how often can you appeal, if you're in there but want to get out of the facility, to the appeal board?

**Dr Manchanda:** The patient can be brought into the hospital against his will on what is called the application for psychiatric assessment. This is a certificate that brings the patient in for a maximum of 72 hours, during which time the psychiatrist is asked to assess the patient to then decide whether the patient should be a voluntary or an involuntary patient. If the psychiatrist then decides to put the patient, against his will, as an involuntary patient, he puts the patient on what is called a form 3, which is valid for two weeks. The patient is told of his rights to appeal to the review board at this time, and the patient has a right to appeal to the review board. The review board meets within seven days of such an application.

1100

Subsequent recertifications can be made, which are valid for one month, two months and three months, and during each of these recertifications, the patient is informed of his rights to appeal to the regional review board. Should the patient not decide to appeal to the review board during any of these, at the time of the fourth recertification, the patient automatically goes in front of the regional review board, which means that even though a patient may not exercise his right to go to the review board, at the time of the fourth certification, which is approximately six months of continuous certification, the patient will go before the regional review board and it will decide on the certificate.

**Mr McLean:** What right does the individual have to refuse treatment?

**Dr Manchanda:** A competent psychiatric patient over the age of 16 years can refuse psychiatric treatment. This has nothing to do with his involuntary status. He could be kept in hospital, but if he's competent to consent or refuse treatment, then if he decides not to take treatment, he cannot be treated.

In deciding on the competence of a patient to consent for treatment, what the psychiatrist takes into consideration is whether or not the patient understands the

nature of his illness, whether or not the patient realizes the benefits of taking treatment, whether or not he realizes the risks of taking treatment, the fact that he could deteriorate if he does not take treatment, the fact that he can improve if he does take treatment, and the risks that the patient has in case he decides to take treatment in terms of side-effects and so on, and that everybody may not respond to it.

There's quite an elaborate process involved in deciding whether a patient is competent to consent for treatment or not. This is something that is assessed on a day-to-day basis and does not have a duration placed upon it.

**Mr McLean:** Can you tell me under what circumstances the electroconvulsive treatment can be used?

**Dr Manchanda:** The most common indication for using electroconvulsive treatment is a major depressive disorder, especially when the patient is also delusional and has marked suicidal ideation. However, in order to give electroconvulsive treatment, we have to obtain the patient's consent to do so. If the patient is mentally incompetent to consent, you can ask for substitute consent from the next of kin as defined within the act.

**Mr McLean:** Does the patient have the right to legal counsel when they go to each appeal?

**Dr Manchanda:** Oh, yes, of course.

**Mr McLean:** Who supplies that legal counsel?

**Dr Manchanda:** What happens is that when a patient is certified, one of the copies of the certificate is sent to the local legal aid office. A representative from the legal aid then comes to see the patient, usually, in my experience, within 24 hours.

**Mr McLean:** The other question that I have is with regard to release of patients upon a recommendation of the review board. In your experience from the facility that you worked in, what percentage of them have committed a crime to be readmitted again?

**Dr Manchanda:** I must mention that I do not work in forensic psychiatry. Therefore, my experience is mainly to do with the regional review board within the Mental Health Act and not within the Criminal Code, so I do not have experience in that area.

**Mr McLean:** What are your thoughts on the ability of a psychiatrist to identify potentially dangerous persons?

**Dr Manchanda:** This is a very difficult area. This is a controversial area, because there is no real test to decide on dangerousness. Research has shown that patients who have committed an offence in the past or have been dangerous or violent in the past have a greater risk of being violent in the future. Patients who have been violent during the course of a mental illness again have a risk of becoming violent during a relapse of the condition. Finally, this may not be very scientific, but the gut feeling of an individual, not just of a

psychiatrist, is an extremely important indicator of the dangerousness of a person.

**Mr McLean:** A final question: What are your thoughts with regard to the Mental Health Act? Do you feel there are some changes that could be made to make it better?

**Dr Manchanda:** The Mental Health Act has evolved over the last 20 years. If you look at it from a patient's point of view, it protects the patient's rights throughout the course of hospitalization and psychiatric treatment. So it is really good from that point of view in terms of protecting his rights and liberties.

If you look at it from a psychiatrist's point of view, the first impression or feeling might be that there is too much procedure involved in it, but the fact of the matter is that anybody who needs treatment can get treatment under the act, and I think that is the important thing. It would be nice if the patient consents to treatment and comes into the hospital voluntarily, but the fact of the matter is that we are in a climate where this is not going to happen. The Mental Health Act is here to stay, and it is for us to make the best use of the Mental Health Act to protect the patient's rights and yet, at the same time, treat the patients who do need treatment.

**Mr McLean:** How much time have I got left, Madam Chairperson? About two minutes?

**The Chair:** You've got two and a half.

**Mr McLean:** Thank you. The patient's rights: We have now the freedom of information act. We have the position where a patient can write—and we have one who writes 50 letters a week, expects replies, makes information requests. He expects replies from all the ministries and individuals and is costing society a pile of money for his requests. Should there be some limitation to that patient's right to be able to do that?

**Dr Manchanda:** Well, sir, I don't know. How do you draw limits on patients' rights and people's rights? I guess economics is a strong factor, but I don't think that can limit a patient's rights and liberties under the Charter of Rights.

**Mr McLean:** It's interesting, because the individual, the patient, wrote to the Ministry of Government Services, found out how long it would take to cut through the bars. He got all that information but he got it all through the freedom of information act. So I'm wondering how far patients' rights can go to get this information.

**Dr Manchanda:** I guess it's a pendulum, sir: It will swing to the other side and finally it will have to come back.

**Ms Harrington:** In this job in dealing with our constituents we always seem to meet the most interesting of our constituents at times. I'd like to tell you about a situation. It's going into the area that you have already discussed. I had a woman whom I know quite



well in the city of Niagara Falls come to speak to me about her 26-year-old son, who is a schizophrenic and dangerous to himself and others. It's very difficult for her to get him the adequate treatment.

Now, I'm certainly not an expert, so I can't speak to all the details, but using that as an example, my question is, is the process that you are now involved in adequate with the three-person panel, with, as you said, one person who is the layperson with this gut feeling—I would agree with you that sometimes that is important, to have another person there using their instinct—and balancing between the rights of the individual to some kind of control of their life, but also the rights and the safety of society? You've explained the process and I believe you're doing everything you can to make it work, but can you, in the future, see any changes that would make the system better?

**Dr Manchanda:** That's a very valid and important comment that you've made. There are occasions when my heart goes out to my patients' families, because at the end of the day they are the ones who are dealing with the individual patient.

I think one of the things that can be looked at in the future in terms of the Mental Health Act and does not exist is the provision of treatment after a patient is discharged from the hospital. One of the things that is happening is that there is a greater move towards deinstitutionalization. We are looking at a lot of community treatment of psychiatric patients. I think it is very important not to confuse homelessness with deinstitutionalization. It is important that these patients are treated when they're out in the community. But the fact of the matter is that there is a certain group of patients who do extremely well on treatment, do not wish to take treatment, and who, when they are discharged into the community, do not follow up on adequate treatment.

I think the answer to that is—and again, not to put everybody in that category, but patients who respond well to treatment during hospitalization, if in some way they can be asked to continue with treatment as outpatients so that if they do not take their treatment they can be brought back into the hospital before the situation gets so bad that the family and the community are suffering because of it, it would do a lot, not just for the patient but for the community and, I think above all, towards the overall costs of hospitalizations and review boards and hearings and everything else.

It has been shown that in places where you've reduced the number of beds and you have sent people out in the community, short stays result in more frequent hospitalizations, whereas if you have a lot of beds available, then the patients tend to stay longer. So where do you draw the balance? Do you draw the balance in terms of a more comprehensive treatment for psychiatric patients, not just within the hospital but also in the

community, and hopefully get the Mental Health Act to support that provision?

**1110**

**Ms Harrington:** My question was actually the process of deciding whether a patient should be voluntary or involuntary or making that person take treatment. Should that process be changed? Do you feel there are ways of improving that?

**Dr Manchanda:** No, I don't think so, because if you look at it, in 80% of the cases the certificate is confirmed by the review board anyway. The majority of the patients who are considered that they should be staying in hospital, the review board agrees with it. So these are the patients who are staying in hospital and are taking treatment. There will always be a subgroup of patients who will go between the cracks, and I'm not sure if there is anything within the present Mental Health Act which is going to be an answer to that without compromising patients' rights and liberties.

**Ms Harrington:** That's a very delicate balance.

**Dr Manchanda:** It is indeed.

**Ms Harrington:** You're saying that you can't go too far in one direction. You have to have that problem, that some will fall between the cracks because of their rights.

**Dr Manchanda:** Yes, ma'am.

**The Chair:** Mr Waters and then Mr Marchese, and there are five minutes left.

**Mr Waters:** I will try to be as brief as possible. Correct me if I'm wrong: You do not deal with the criminally insane.

**Dr Manchanda:** I do not, sir.

**Mr Waters:** Therefore, the person Mr McLean was talking about who is held at Oak Ridge under what, when this person was actually being held, was a Lieutenant Governor's warrant, is not the person you deal with.

**Dr Manchanda:** No, and neither does this regional review board.

**Mr Waters:** Okay. That was one thing I wanted to make sure of.

Both Mr McLean and I represent the community where not only Oak Ridge is for the criminally insane but indeed the Penetanguishene Mental Health Centre as well as Georgianwood. What we find, though, is that we get a lot of people like the schizophrenics who come out, and because they have lived there for so long, they go into our community instead of going home. What I guess maybe we find more than other communities is needs. They have needs in the community for things like psychiatrists and psychologists to work on an outpatient basis within the community.

We also find that these people, probably through no fault of their own—I know I take medication every day

and sometimes I forget, but their medication is much more crucial. If they forget and they slip a bit—they might forget a pill today, and then tomorrow or the next day it's two or three—they end up back in. I was wondering if you think there's any better system on the outpatient aspect that we could do.

**Dr Manchanda:** I had just mentioned about extending the certification process and need for treatment on an outpatient basis. I think that will take care of that, but I do agree with the other comments you've made.

**Mr Rosario Marchese (Fort York):** Dr Manchanda, I have two questions, if we can squeeze them in. One, how do we balance out the effects of treatment versus the effects of lack of treatment? I see that the treatment at times, in terms of the prescription of drugs, has adverse effects on people. How do we balance those two?

**Dr Manchanda:** I've often remarked this to my medical students and residents: 50% of the time I'm trying to convince the patient to take the medications and the other 50% of the time I'm telling the patient not to take medications.

In all psychiatric treatment trials there are certain things that are absolutely clear. One is that about 30% of patients do not respond to currently available medications. The second is that all currently available medications are more effective than placebos. So there are 30% of patients who will respond to placebos or who will respond to nothing or who will respond to medications. But the fact of the matter is that by and large medications are better than placebos.

Medications do have side-effects and I think over the course of the 20 years that I've been prescribing I've seen drugs with a lot of side-effects versus those with very minimal side-effects, and I guess that's the process we are in trying to have drugs which are at least as effective, if not better, but have fewer side effects. And that's the balance that we have to achieve.

**Mr Marchese:** I wanted to ask you a question on the abuses of power by psychiatrists, but I'm going to pursue this point a little bit because I've known a number of people who have been prescribed many drugs, sedatives, Valium and the like, and have taken them for years because of problems of being isolated in some communities where they don't have enough recreational activities or friends who they can talk to in a similar area. The doctors' answer to some of that is to prescribe things like Valium and other drugs. I don't really know what they are. My sense is that over a long period of time it's damaged people.

So I understand that some psychiatrists and doctors have a good sense of balance, but, also, I'm afraid that some do not and they simply prescribe without having that overall sense of the overall effects on people's bodies and minds, and that is why I ask that question because it continues to be a worry for me.

**Dr Manchanda:** I think the responsibility lies equally on the patient as well as on the doctor. I think it is important to weigh the benefits of a medication versus the potential for abuse. We have a system where you can have one person refusing to give a drug and the patient just goes out to another place and gets the medication. We see that with antibiotics all the time. You have a person who says: "This is a viral infection. You do not need antibiotics." The patient gets away from the doctor, goes into a walk-in clinic, gets an antibiotic and that's it.

I think that is going beyond the mandate of this committee but I think I would like to mention that patients are often told that the medications have a limited effect and that is what it has to be used for. I cannot just put all the blame on the profession because I think patients have a role to play in it too, but I think what really needs to be done and is being done to a large extent is education in the matter.

A lot of the times the patients are told that they should only be taking the medications for a certain period of time, and the surprising thing is that there are many patients who will not take the medications even though you ask them to take them, and there are others that you are telling them not to take and yet they continue to want a prescription. There's a kind of a consumerism in this where the patient feels that he has to get what he wants. I don't have the answer to that; I don't know if anybody else does.

**Mr Cleary:** Something that's been on my mind for a number of years and I just would like your advice on it, an experience that I had back a number of years ago of a friend and I guess he was reaching out for help. I had made some phone calls on his behalf, trying to get him admitted, and I had run into a big roadblock. He wouldn't do it on his own and the end result wasn't very good and it took me a considerable length of time to get over it. But I'd just like your advice on how you would go about it when you saw someone in the community who needed help.

1120

**Dr Manchanda:** My experience is that myself and my colleagues included are very cautious in matters like this. Given the medico-legal climate, there is a greater attempt to bring the person into the hospital if there is a need to, as opposed to getting the patient not to come into the hospital. But the fact of the matter is that there is no foolproof test of whether a person is going to hurt himself or not. One acts in best faith and with good judgement, but it is possible that at times mistakes are made. I don't think, in my experience, it is due to pure negligence, but there are always some patients who will present to you very differently than they have presented to some other people in the community.

**Mr Cleary:** What should an ordinary citizen like myself do if I see someone like that?



**Dr Manchanda:** A person can go to the family doctor, who is the primary physician. A person can call the police if a person is threatening or has threatened, is attempting or has attempted to hurt himself or others. The family can go to a justice of the peace and present enough evidence and the justice of the peace can then put a patient on a form 2 and send the patient for a psychiatric assessment, which is then carried out in a hospital setting. There are all these situations.

If a patient has been seen by a doctor within seven days prior to that day and if enough evidence is presented to the doctor to say that the clinical condition has deteriorated, that particular doctor can still certify the patient and send him. There's a lot of a network there to get the person into the hospital in a situation like this. Quite often patients and families will call the hospital for advice on this matter as to what they should do. This is what I would advise them.

**Mr Cleary:** I had called a hospital but there was no mechanism there to get this individual admitted.

**Dr Manchanda:** Was there a department of psychiatry there? Because it has to be a schedule 1 facility.

**Mr Cleary:** Yes, there was. This is back a number of years ago. Maybe things have changed now.

**Mr Mammoliti:** He has to be of harm to himself or to the community before he can be admitted.

**Mr Cleary:** That's right, he was of harm to himself.

Just to follow up a little bit from my colleague Mr McLean, are there any changes that you'd like to see to the Mental Health Act that would improve it somewhat?

**Dr Manchanda:** The only thing I mentioned was that I think the extension of treatment beyond hospitalization will do a lot towards maintaining patients in the community and preventing frequent rehospitalizations.

**Mr Curling:** Dr Manchanda, it's an important role you're going to play, I know. I'm going to take some of the positions that my colleagues have taken, some of their experiences.

But before I do that, it's quite tempting, whenever we see a policeman, to try to extract from him all the information about what parking tickets we've got and how we get out of them—or we see a doctor and get all the free advice out of him—instead of paying. Here's an opportunity now where I'd like to get some free advice out of you as a politician on serving on this board.

If there's any issue that comes before me as a member of Parliament—when families come before me about a schizophrenic son or daughter or member of the family, they seem to be completely frustrated with the system in order to get treatment in a way or having this one individual institutionalized. Government plays a role in deinstitutionalization, institutionalization and what have you without any backup at times, resources outside there.

I'd like to ask two questions on this. One is, do you see any improvement that could be done in regard to the Mental Health Act in assisting the family more? I know the patient is important and I know the doctor who is treating is also very important. But the family somehow, although you said there are resources there—and I hear you mentioned adequate resources there for them to do this—I don't feel so, or I am frustrated. I lack the knowledge and information and they also lack the information. Is there any way you see an improvement in the way we educate those people or bring about resources that can assist them to help their families in that very dramatic time?

**Dr Manchanda:** As the act stands, it does not give any such powers to the family, so really there's nothing that can be done about that. But in terms of educating the family about the provisions of the act and how best it can be implemented, that is something that is possible with combined efforts of either the medical community or the regional review boards having some kind of an educational role within families of schizophrenics or other situations. In my capacity as a psychiatrist, I have often talked to families of schizophrenic patients and explained to them the limitations set within the law, and I suppose one just has to work within it.

**Mr Curling:** But you're just one doctor and I'm talking about the board here. Is there a strategy that you think should be put in place? Somehow they feel that the law has failed them.

**Dr Manchanda:** I think there is a strategy in place in that the family members are invited to the board for a hearing and present their view as to what the patient was like before hospitalization, and I've seen that happen many a time.

**Mr Curling:** I'm just going to say this to you, and maybe sitting on the board may reveal to you more, that they feel it's not adequate; somehow it doesn't assist them. I'm not making a judgement in that; I'm passing on information to you.

The other question I had is that it is also felt there is not enough infrastructure out there when we deinstitutionalize mental patients outside there. We saw that in the early 1980s when the government decided to do that. I personally had to deal with that when I was the Minister of Housing, to house these people—as you said, they're homeless people. Some are being put on the street and, as you said, maybe they did not take their medication and found themselves floating there.

Is it a concern to you that when we do put those individuals out of the institution, because you feel there's an independence and they don't need to be there once they take their medicine, do you feel there is enough support out there to assist them through that process as they become familiarized again with society? I'm talking about housing and the other areas of counselling adequate there to keep them supported when

coming back into the community.

**Dr Manchanda:** I'm sure we could do with more support, but it's not for me to decide whether that is available or not available.

**Mr Curling:** But I want you to decide that when you get on the board. I want you to say to them that it's not adequate while we see this need. The board will say, "It's no use putting these people out there if there is no support there." I don't need a comment from you now, but I think it's a great concern out there that people are out on the street because they're not taking medication. Your decision to release someone out there will depend on the support they have outside there in the community.

**Dr Manchanda:** Indeed that is true.

**The Chair:** Thank you, Mr Curling, and thank you, Dr Manchanda, for being before us this morning.

**Dr Manchanda:** Thank you very much for the opportunity.

**The Chair:** Would the committee like to move the appointments, please. The first is Susan Copeland to the Workers' Compensation Appeals Tribunal. Mr Mammoliti moves that.

**The Chair:** All in favour? That's unanimous.

The appointment of Dr Lyn Guenther to the Drug Quality and Therapeutics Committee, moved by Dr Frankford. All in favour? Opposed, if any? Mr Mammoliti, you have to vote one way or the other.

**Mr Mammoliti:** I'm in favour.

**Ms Harrington:** Everyone has to vote.

**The Chair:** Yes, or leave the table. It's in our standing orders and we don't have a choice, so I'll take that vote again. All in favour of Dr Guenther's appointment? Okay. Opposed, if any? Well—

**Mr Curling:** I voted for.

**The Chair:** All right.

**Ms Harrington:** Could it be recorded?

**The Chair:** Thank you. The appointment of Dr Manchanda to the Review Board for Psychiatric Facilities, moved by Mr Marchese. All in favour? That vote is unanimous. Thank you, members of the committee. If someone would move adjournment, please, we'll move into the subcommittee.

**Mr Waters:** I move adjournment.

**The Chair:** Thank you.

The committee adjourned at 1131.



## CONTENTS

Wednesday 16 June 1993

<b>Subcommittee report</b> .....	A-81
<b>Appointments review</b> .....	A-81
Susan Copeland .....	A-81
Lyn Guenther .....	A-83
Rahul Manchanda .....	A-88

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Rizzo, Tony (Oakwood ND) for Ms Carter

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service

CA2601  
X019  
-952



A-7

A-7

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 23 June 1993

# Journal des débats (Hansard)

Mercredi 23 juin 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Subcommittee reports

Rapports de sous-comité

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 23 June 1993

The committee met at 1136 in room 228.

## SUBCOMMITTEE REPORTS

**The Chair (Mrs Margaret Marland):** Good morning. I call this meeting of the standing committee on government agencies to order.

The first order of business is the report of the subcommittee. We actually have one written report and one oral. The written report I think you have in front of you. That was from last week's meeting of the subcommittee. We had a subcommittee meeting this morning, and we would like to give that orally so that it's on the record, with the concurrence of the committee members, and then we will forward you a printed copy of that oral report. That's just to expedite the business of the committee. Would somebody like to move the written report that you have in front of you?

**Mr Daniel Waters (Muskoka-Georgian Bay):** I'd like to make a comment on the written report, actually, before we go into adoption. I raised this in subcommittee; I raise it again now. I would ask that the Tory caucus go back and have some more discussion on the review of the Workers' Compensation Board. That board has been studied to death, both by committees and by outside task forces.

The WCB is spending a lot of time, energy and resources responding to these various reports and is trying to implement the recommendations. Another report or inquiry would only divert attention and resources away from these efforts once again.

I know I instituted one of these way back in April 1991. I had concerns, like everyone else, about the WCB, but if there was one thing I heard from both the management and the injured workers' sides and all other interested parties in 1991, it is that there are a number of recommendations, and please leave them alone to implement the recommendations. There have been a series of things that have happened ever since that have taken up their time right up through to the present, and indeed into the future, already.

I would ask that the Tory members of this committee go back and discuss this with their caucus and that we leave to another day that particular one; otherwise, I feel I have no alternative but to make a motion of some sort that we do not move ahead with the compensation board.

**Ms Margaret H. Harrington (Niagara Falls):** I'd like to add briefly that workers' compensation is something I've been very, very concerned about for quite a while now. I have been speaking with Bob Mackenzie about it on an ongoing basis. It seems to me,

and I can share this with you, that now is the time that things are actually beginning to change and happen there, and that's what I want: improvements to be made. I would concur with Mr Waters that we give them a little chance to see if they can implement the recommendations that have already been made by other committees.

**The Chair:** What you're saying, for clarification, is that if the Workers' Compensation Board remains one of the selections of the three agencies to be reviewed this summer, you will defeat that motion. Is that what you're saying?

**Mr Waters:** What we're saying is that unless Mr McLean, representing the Tory caucus, goes back and talks to his people and they discuss this, yes, that's what we're saying. If we can't come to a mutual understanding on it, then we'll end up voting against it and defeat it.

**The Chair:** The mutual understanding is that you won't approve the WCB for review.

**Mr Waters:** Yes.

**Mr Allan K. McLean (Simcoe East):** That's the first time I've heard of this happening in a committee, and I find it rather strange. As you're aware, the WCB wasn't my choice; it was taken to our caucus and the caucus made the choice to review it, albeit there was a lot of discussion, from what I've heard.

From what I gather from the government members and the issues they're raising, it certainly gives me thought to change my mind and feel that probably the WCB is something we had better be reviewing. If the government is so adamant about not wanting to review it, then it certainly gives me the thought that there's something there, that maybe we'd better try to find out what's wrong.

**Mr John C. Cleary (Cornwall):** I don't think things are getting a lot better in the workers' compensation. I know that down our way they just opened a new facility for the injured workers and they have voluntary staff there. I was at their opening, and things are in a terrible situation. If things are getting better, I sure don't see it.

**Mr Waters:** If I could clarify, what I'm saying is that there have been a number of recommendations. If you look at the report that came out of the hearings I initiated in the resources development committee, if you look at the operational review report and a number of other reports, you will see that they're spending all of their time here, or answering questions for different people in different sectors of the government, and not being able to implement what indeed we're trying to



mandate them to do. They can't do all things for all people at once. What I would like to see compensation do is something for the employers and the injured workers. That's what we have tried to mandate them to do in other committees. We're spending too much time dragging them in here and preparing for here.

**Mr Cleary:** The other side of the coin is that that was done over two years ago or about two years ago.

**Mr Waters:** No. Actually, we did something quite unique in our 12-hour review. What we did was that we left an hour or better with WCB and made it come back last summer. We made them work for a year and then dragged them back and said: "What have you been doing? What are your intentions?" That report is sitting in Hansard. As well, there is a report from WCB on its moves to that point.

Since then, they've had the audit; there's been a thing on occupational disease. There's a list of about seven different groups that have dragged them in here. Sooner or later, you have to allow them to do their work. That's what we're attempting to do and that's why we have the concern.

Maybe we should compile the list in detail with some briefing notes on each, or get WCB to, and then have it forwarded to the Conservative caucus and indeed the Liberal caucus so that we're all aware of what indeed has gone on to this point, and then bring it back for discussion again.

**Mr McLean:** Well, for the amount of staff at the WCB—there are thousands of them. There are worker advisors; there's a problem in that area. It was an area that, when the government party was in third place, it adamantly wanted worker advisors. They were after so many things.

As far as I'm concerned, I've made up my mind now that the WCB will remain our choice and we will deal in whatever way we have to deal with it in committee. If the government members feel as strongly as they do that we shouldn't be dealing with our pick, then we will deal with that as the time comes.

**The Chair:** In fairness to the committee members, I'm wondering if any of the five members who are here this morning have sat on this committee when we have reviewed government agencies before. I'm just asking that for the information of the committee, that you have reviewed government agencies before.

**Interjections:** Yes.

**The Chair:** Then you will be aware of the fact that we have never had the choices of the three caucuses defeated by the government in office. The history of this committee, which is the information I'd like to place on the record with you, is that the process has always been that each caucus selected a government agency for review, and those choices have never been defeated by the balance of power on the committee, which has

always been the government, obviously.

When I came down here eight years ago, I was on this committee. I've just checked with the clerk and the researcher because I did wonder whether there had been a precedent for the government saying no to an agency review, and that has never been the case. I would like the committee members to know that.

**Ms Harrington:** Would it be possible for us to consider what you've just said and actually make a decision on the Workers' Compensation Board at our next meeting?

**The Chair:** Would that give us enough time, Madam Clerk?

**Mr McLean:** Madam Chairman, I don't know if there's any point in this committee meeting to deal with agencies. When there are some 800 agencies and we can't pick one of them and have it dealt with in an appropriate manner, the same way any other agency is dealt with, then there's just no point in this committee sitting and dealing with it. It's a waste of my time and everybody else's time if we pick one and they say, "We're not going to deal with that." Well, then we're not going to deal with anything. That's dumb. If they want to fight over it—

**Ms Harrington:** We just explained to you that this particular agency has been dealt with.

**Mr McLean:** I don't care. That's my choice, or our party's choice, and we have that right.

**Mr Waters:** Could I ask for a few minutes' indulgence for us to caucus on this again? I know we're running close to the end of our time, so if we could get a few minutes' indulgence. I don't want to ask for a total of 20 minutes because I don't want to keep us here for 20 minutes if there's no need to.

**Mr Cleary:** Speaking for myself, I don't have 20 minutes. I've got till 12 o'clock and I'm out of here.

**The Chair:** Shall we have a five-minute recess? Is that all right? Okay, we're recessed for five minutes.

*The committee recessed from 1147 to 1153.*

**The Chair:** Mr Waters.

**Mr Waters:** We, as the government side, have caucused, we have talked this over. We still feel very strongly about what this is doing. We feel this is definitely going to impede WCB's ability to get on with the job that has been requested by the employers, the workers, the injured workers and all other people who come in contact with the WCB. At the same time, we also feel that if the third party does not want to listen to reason on this, we are not prepared to go against history; therefore, we will not be opposing its pick.

But we believe very strongly that this is going to be once again a delay and indeed inhibit even further the ability of the WCB to do the job it is intended to do. I can't stress that sentiment strongly enough. I really

believe we've gone through this. Also, I feel that the employers and the workers are getting tired of coming in here to make their case, because they're frustrated. They come in and make their case, and here we are once again delaying the WCB's ability to act upon their recommendations. I feel very strongly about that and I know that this whole side does.

**The Chair:** Thank you for your comments, Mr Waters. Would somebody like to move—

**Mr McLean:** Madam Chair, I'd like to make a few comments in terms of the address we got with regard to the WCB. I don't believe that any government board or agency should feel they're being hard done by in being called before this committee. I think that's the job of this committee, to deal with it.

The member has indicated that yes, there have been some discussions and WCB has been looked in terms of financial aspects in the standing committee on public accounts; the resources development committee has met and has looked at some of the aspects. But for the government agencies committee to deal with all government boards and agencies I think is appropriate. I don't think any organization is being hard done by in being asked to do so, and if things are in order, there should be no problem for the WCB to report here, and we could look at the findings at that time.

**The Chair:** Would somebody like to move the subcommittee report of Wednesday, June 16. Moved by Mr Marchese.

All in favour of that report? That's unanimous. Thank you.

Now the clerk will give us the verbal report from today's committee.

**Clerk of the Committee (Ms Lynn Mellor):** It was determined in the subcommittee earlier this morning that the earlier selections that were tentatively scheduled for today be rescheduled for July 7, and if the House is not sitting on July 7, then in the first meeting during the

recess; that Mr McCaig of Ontario Hydro, Mr Bruce Davidson of the University of Waterloo board of governors and John Greenhow Kelton, Health Research Personnel Committee, be rescheduled to those dates.

In addition, it was determined that for the first meeting of the committee during the recess of the House, that the following two choices by the government party, Ms Kimberly Perrotta, Advisory Committee on Environmental Standards, and Ms Catherine Henderson, College Standards and Accreditation Council, be scheduled to appear at the first meeting during the recess.

That would take the 14-day extension; that would take us to August 6. If we were to pass August 6, then these two appointments would then go through without review of the committee.

**The Chair:** The only explanation I'd like to add to that is that in terms of the three we did have scheduled for today from the previous pick, two of those three were not able to be scheduled when the clerk's office contacted them. That's why they're not here today.

Would somebody like to move that report by the clerk? Are you moving, Mr Waters?

**Mr Waters:** If I could make a comment, I know it's back on the previous report, but for all members, there has been all-party agreement here that indeed the intended appointment to the Ontario Film Review Board, Wendy Priesnietz, is being held until she is available to come before the committee and that there is an exemption of the time limits on that particular case, if so needed.

**The Chair:** Thank you, Mr Waters.

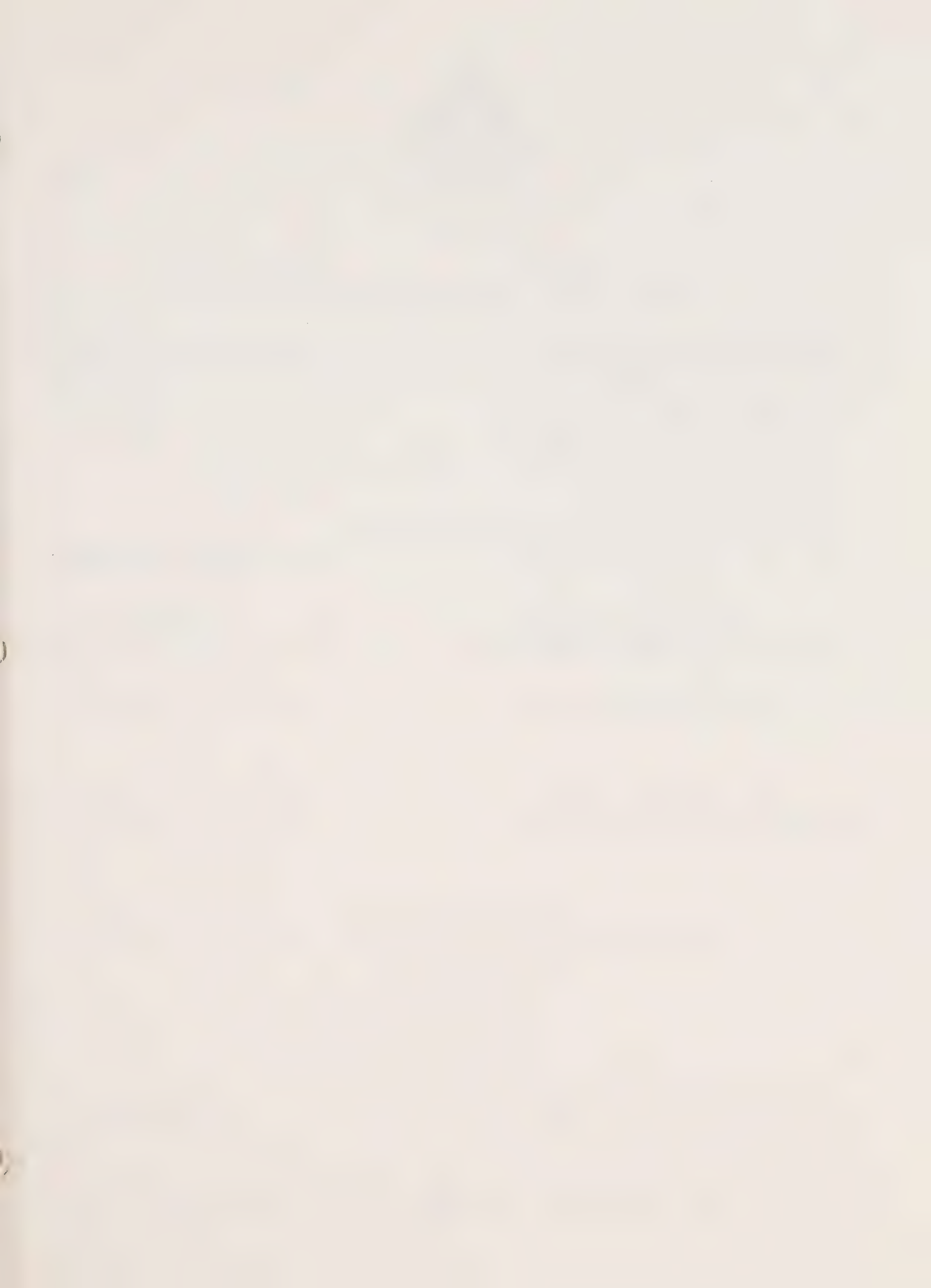
**Mr Waters:** And I so move the report.

**The Chair:** Thank you. All in favour of today's report? That's carried unanimously. Thank you very much.

The committee adjourned at 1158.









## CONTENTS

Wednesday 23 June 1993

Subcommittee reports .....	A-95
----------------------------	------

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
  - Bradley, James J. (St Catharines L)
  - Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
  - Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
  - Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Substitutions present/ Membres remplaçants présents:**

Fletcher, Derek (Guelph ND) for Mr Mammoliti

**Clerk / Greffière:** Mellor, Lynn



A-8

A-8

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 7 July 1993

# Journal des débats (Hansard)

Mercredi 7 juillet 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Intended appointments

Nominations prévues

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 7 July 1993

The committee met at 1033 in room 228.

## INTENDED APPOINTMENTS

**The Acting Chair (Mr Gary Carr):** I'd like to call to order the committee for the hearings on the intended appointments.

DOUG McCAIG

Review of intended appointment, selected by official opposition: Doug McCaig, intended appointee as member, Ontario Hydro board of directors.

**The Acting Chair:** Mr Doug McCaig will be our first participant. As the committee members will know, we have a half-hour, and during that period of time we will ask Mr McCaig if he has some short introductory comments and then we'll divide up the time for some questions at the end. Mr McCaig, if you could just come on up to the microphone, please state your name for the record so that Hansard can get it, and then you can just proceed if you have some short comments; if not, then we'll get right into the questions.

**Mr Doug McCaig:** My name is Doug McCaig, from Fort Frances, Ontario. I'm the past chair of the Municipal Electric Association and I'm looking forward to an appointment to the Ontario Hydro board of directors.

Through the Chair to the members of the committee, I'd like to say good morning. It is a good morning, and we should perhaps be out golfing or fishing or something rather than working like this, but that's the unfortunate part of it.

Again through the Chair, I would turn it back to you. I have nothing to say, and I'll be happy to field any questions I can.

**The Acting Chair:** Terrific. Thank you, Mr McCaig. We'll start off with the official opposition.

**Mr John C. Cleary (Cornwall):** Welcome to the committee, Mr McCaig. First of all, how did you find out about this appointment? Who approached you or whom did you approach?

**Mr McCaig:** I really didn't approach anybody. The whole thing started in our district, district 3 of the province, which is the Thunder Bay area right to the Manitoba boundary. The people out there suggested that it would be a good idea, as I was on the MEA—this is when I first started into the business with the MEA—that I be a member of the Ontario Hydro board of directors so we could develop a partnership. My name was presented to the then Minister of Energy, Lyn McLeod. That's when the whole thing started, and it's been building ever since then.

**Mr Cleary:** You mentioned that you had been a

chairman of the Municipal Electric Association, and that you know how valuable public hearings are, as well as the energy hearings that were to investigate Ontario Hydro books. Do you agree with the government of Ontario? Under the restructuring of Ontario Hydro, should there be public hearings on the restructuring?

**Mr McCaig:** I think there has to be some sort of contact with the public, some sort of accountability. Whether it's through a hearing or not, I can't really say. I don't know if you're referring to the Ontario Energy Board hearings, but the position of the MEA in the past has been that because Ontario Hydro is its own controlling agent or answers to itself, it would suggest that you don't really need a hearing. Sometimes the OEB hearings were an exercise in futility; as the major intervenor, this is what we found sometimes, but I believe there has to be some sort of accountability on the part of Ontario Hydro to the people of this province.

**Mr Cleary:** One other thing I should mention: You say more cogeneration should be encouraged by Ontario Hydro and that there should be more projects approved, is that correct?

**Mr McCaig:** At this particular time, I think we have to utilize the power we've got on hand. To go into cogeneration at this particular time, I don't know if it would be a cost-effective thing to do. I really question that at this time. The studies that we have taken and the agreement that the Municipal Electric Association is trying to bring on a partnership basis with Ontario Hydro suggests that some sort of penalty clause has to be invoked to buy into that sort of thing.

**Mr Cleary:** What's your position on nuclear power?

**Mr McCaig:** I guess you're referring to it on an environmental basis, or an efficiency basis? What are you referring to about the nuclear?

**Mr Cleary:** Well, I guess both.

**Mr McCaig:** I think we have to wait for the chickens to come home to roost on the whole thing. When you start looking at a study based on which is environmentally most threatening, there are many factors that have to be weighed. I know there's a great danger with nuclear; I'm very much aware of what has happened in Russia and this sort of thing. But all of a sudden, I can take a look at hydro-electricity, and now it is environmentally damaging.

To the natives of this province, hydro-electricity is more environmentally damaging than perhaps nuclear. It all depends where you're coming from on the whole thing and who you are. The natives are very much afraid of damming water and destroying the various



environmental things around them. I would suggest to you that they are not as worried about nuclear as they are hydro. It all depends on where you sit. I can understand that in eastern Ontario they're very much worried about nuclear energy because they're sitting right there with it.

1040

**Mr Cleary:** Ontario Hydro has been told that the social contract target is \$100 million. What impact do you think the \$100 million will have on the ratepayers of the province?

**Mr McCaig:** One hundred million dollars is 1.25%; \$83 million to Ontario Hydro means 1% on its bill to the electrical user.

**Mr Cleary:** Would you explain a little bit further?

**Mr McCaig:** I don't know quite what you're after.

**Mr Alvin Curling (Scarborough North):** Your comments seem to imply that the impact of the social contract is not very much. Are you saying that \$100 million is—

**Mr McCaig:** No, quite the opposite; 1.25% is a great deal, because \$83 million represents 1%. When you're in the business of selling electricity, it's what the traffic can bear, and at this particular time I don't think the traffic can bear very much. Five, six, seven years ago, that was not bad.

**Mr Curling:** So the social contract, you're saying—I don't want to put words in your mouth—has a great impact if it goes in that way on Ontario Hydro.

**Mr McCaig:** I would say it's an impact. It's a 1% impact but—

**Mr Curling:** I know it's an impact. Anything has an impact. Is that a bad or a good impact?

**Mr McCaig:** Any financial impact is bad.

**Mr Curling:** Even if you save money.

**Mr McCaig:** I don't know. You'd have to have a value-for-dollar audit on that basis, I guess, Mr Curling.

**Mr Curling:** My colleague had asked you a question earlier on: Are you in agreement with public hearings? You said public hearings, in a sense—that it's the people Ontario Hydro is accountable to, because it's taxpayers' money. Do you believe in public hearings for Ontario Hydro, whether it has conducted any investigations or so?

**Mr McCaig:** I wouldn't put a blanket coverage on saying I'm in disagreement with all public hearings, but I think if we look back at when we started the Environmental Assessment Board hearings with Ontario Hydro, they were rather costly. The public was looking at it. There was a price tag of something like \$6 billion going to be pumped into this thing, and the public was very much concerned about that \$6 billion. That's a very significant figure, and people were wondering about the value of the hearings. I heard some real horror stories

through the MEA about some of the things that were coming out of these hearings and what was being done. On that basis, I would say they're unwarranted.

If the hearing can truly regulate, as is the implication, and Ontario Hydro is self-regulating, then that's another story, isn't it? We're talking about something else again.

**Mr Curling:** But with the restructuring plans of Ontario Hydro—I'm not quite sure I got your response when my colleague asked you, do you think it should be subjected to public hearings? I think I heard you say no. Did I hear you right?

**Mr McCaig:** What I am saying is that it all depends on what the public hearing is on.

**Mr Curling:** The restructuring plan of Ontario Hydro. Do you mean to say you'll take some out, that some part of it be public hearings and some part of it not?

**Mr McCaig:** I'm not sure what the restructuring plans of Ontario Hydro are at the present time. It's broken into three distinct parts.

**Mr Curling:** So you're not aware of this at all.

**Mr McCaig:** A lot of it I'm not aware of, no.

**Mr Curling:** I see. I thought you were a little more informed about that. I have no other questions. Mr Cleary?

**The Acting Chair:** You've got two minutes.

**Mr Cleary:** I've got some jobs for you if you get there. Anyway, I'll not get into that right now.

The municipal utilities are at the municipal table for the social contract talks, despite the fact that the utilities are not receiving any government money. Do you think the municipal utilities should be part of the social contract?

**Mr McCaig:** I think they have to be. At the start of all of it, no, I didn't think they should be there.

**Mr Curling:** Yes or no?

**Mr McCaig:** No.

**Mr Cleary:** You don't think they should be there.

**Mr McCaig:** No.

**Mr Cleary:** Why do you think they shouldn't be there?

**Mr McCaig:** Because they aren't a beneficiary of the government moneys, such as you indicated; for that very reason.

**Mr Cleary:** One thing I guess I'll mention here is that in our part of Ontario, eastern Ontario, right now the water levels are very low and we're getting lots of complaints from many areas, cottage areas. I happened to visit them on the weekend, and the smell and everything—they're blaming Ontario Hydro for lowering their water level in the St Lawrence River. I know you're not there yet. Do you think that should be a big concern to Ontario Hydro, being it controls that?



**Mr McCaig:** I think if it's an environmental issue, definitely. They have to be environmentally aware. The new chairman of Ontario Hydro has indicated that he wants a sustainable business. "Sustainable" means in conjunction with the environment. We have to protect our environment, very definitely.

**The Acting Chair:** Mr Cleary, I'm afraid your time is up. We'll move to the government side.

**Mr Bob Huget (Sarnia):** Good morning, Mr McCaig. It's a pleasure to see you this morning. I, like you, would perhaps have enjoyed a round of golf, but fortunately or unfortunately, as the case may be, I'm not on the golf course. That's probably fortunate in my case. If you've ever watched me play golf, I'll tell you, it's fortunate that I'm here and not on the golf course.

**Mr Curling:** I know you're a better golf player than you are a ball player.

**Mr Huget:** I think everybody in the room, all the members of this committee understand the importance of Ontario Hydro to Ontario's economy, to Ontario's industrial activity, certainly to the consumers of the province, the importance of that very large public utility. The decisions that Ontario Hydro makes, I think all of us would agree, have a very large impact on day-to-day life in this province, whether that's industrial or from a consumer point of view.

Because of the importance of the corporation to the province as a whole and to its people, the appointments to the board, to me, take on a greater importance. Understanding that the decisions the Ontario Hydro board of directors will make on a day-to-day basis have a major impact on the people of the province, what I would like to know from you is what strengths would you bring to Ontario Hydro's board should you be appointed.

**Mr McCaig:** I think Mr Bradley was on TV a week or two ago and he was mentioning something in the House that government representatives of any particular area were a conduit to the people. I think the Municipal Electric Association is a direct conduit to the electrical users of this particular province. I think people sometimes neglect that we have regional differences in this problem that are much more extensive than any other area. Through the MEA you can respect those differences, because they are mostly elected or appointed representatives of each municipal utility.

I think that direct conduit to the people is very, very important, and if one can dwell on that perhaps a little bit, you can say that we could avoid a lot of duplication of services from the municipal utilities and also Ontario Hydro, and that way cut costs. This is one of the most important things we can bring.

I have a good friend of mine who has been a commissioner in North York for many years. We have agreed to disagree, because I come from the north and

he comes from North York and we have totally different perspectives, but we present them like gentlemen and have a look at it, and they are representative.

I believe that I can take all these factors and bring them to the Ontario Hydro board. I have to admit, I feel a little intimidated when I look at some of the names they have there. There are some heavy hitters. I sometimes wonder why you brought a farmer like me with moose manure on my boots rather than one of those interesting people, but nevertheless, I am a little intimidated. But I think I can lend something to that particular board that it does not have now at the present time.

I would like to draw to the attention of the committee, it was only a few years ago that the MEA did automatically have two representatives on the Ontario Hydro board for that reason. With task force Ontario, that was effectively abolished and we have never regained it. I'm not going to say that I'm going to be the representative of the MEA, but I think I can honestly say, and I have to say it in all honesty, that I would represent the MEA, because it is in touch with the people. That's their job.

I would also like to dwell on it a little more from the fact that during my term of office as MEA chairman, I worked very hard to make sure that we moulded a partnership with Ontario Hydro, and I had presented that given case to the minister, Mr Charlton at the time, on any occasion we had met. We tried to get that partnership. I think we now have something going that hasn't been there for quite a few years, Bob.

1050

**Mr Huget:** I have a brief supplementary and then I'll defer to my colleagues. Thank you very much for that answer. I appreciate your giving me your point of view. I have just a very brief question.

I think all of us in this room know the issues that currently face Ontario Hydro and the province. I would like from you, if you could, some sense of priority in terms of dealing with the issues or identification of the issues facing Ontario Hydro, and your view on a priority sort of process of dealing with them.

**Mr McCaig:** Definitely, the issue with Ontario Hydro to the users in the province is price. But obviously we have to take a little more intelligent look at it than just the price, because there is something more or just as important as that also, and that's the reliability of the power in this province.

I realize Ontario Hydro has some significantly large problems, those being costs and cost control and this sort of thing. But there are some good things that have happened. They have built a good, reliable system in this province. A lot of people have ignored that in light of price.

Business or the communities can come up and say: "We need lower costs. We can go here and get lower



costs." We can go to Bulgaria and get it a lot cheaper too, but they turn the energy off for two hours every day. We have to look at the reliability. Again this goes back to the contact with the public. This has to filter down to the public, some of the good things they have paid for.

**Ms Margaret H. Harrington (Niagara Falls):** It's nice to have you with us. I want to speak on behalf of my riding. As you know, in Niagara Falls we have a great history with Ontario Hydro, and a lot of people there are very much concerned about the future of Hydro, and of course concerned about the rates, like everybody else. We have some heavy power users, members of the Association of Major Power Consumers in Ontario, and they have been meeting with us and the government and with Hydro over the past years because of the desperate situation of the rate increases.

I want to say that your job now is I think of extreme importance, and we are charging you with a great responsibility for the future because Hydro is so important, I believe.

My two questions—I think Bob got into one of them: the issues you see in the next few years as priorities to address, such as the restructuring. What is your ideal? How do you see Hydro functioning in a way that is efficient and serving the public of Ontario? I'm looking at the restructuring angle of it.

Secondly, the relationship of the MEA to the Ontario Hydro board: There have been some difficulties probably in the past. How do you intend to get them more involved as part of a system so that the customer doesn't feel distant from Ontario Hydro, that the municipal association is really part of serving the customer and part of Ontario Hydro as well?

**Mr McCaig:** Perhaps I can answer the last question first. With the municipal association, we have to advocate energy management obviously. The best way to do that to the electrical user is through the municipal utilities, because they are the ones most familiar with their area. This is one the problems they had in the past. Ontario Hydro would walk in with its people, and there's the survey or there's some sort of energy service, and nobody knew what the hell was going on. The municipal utility was the last one.

What we're saying is that if the municipal utility is charged with that particular duty, it's going to do it much better and much more effectively than Ontario Hydro. So you can reduce costs. This is where the partnership can work. Ontario Hydro and the MEA can work at this level, and we have a trickle-down philosophy, I guess, that it goes into the municipal utilities, but they handle it. At that level, the commissioners, as elected or appointed, are responsible to see that it happens in a workmanlike and efficient manner. That's one way. There are many other ways that the partnership can work.

I guess rather than a partnership you can say that maybe it's a marriage, because there's always a little bit of a rocky road there and you have to expect that. They're looking at it from their angle and we're looking at it from the customer's angle. The MEA is much more aware of the customer's angle on the whole thing, and I would like to say that as soon as the MEA loses that perspective, there are a lot of people around there who will kind of give him a little bit of a boot and get him back into position to truly represent the customer or end user.

What was the first question? I'm sorry.

**The Acting Chair:** We're almost running out.

**Ms Harrington:** How would you see the restructuring working well?

**Mr McCaig:** I have put in a great number of hours. I'm the chairman of the institutional restructuring committee for the MEA. We have had people in from the United States, Great Britain, Nova Scotia, we've had private people come in such as Great Britain and we've had people who were still publicly owned but it's on a competitive basis.

I think what has to happen—I want you to listen very carefully to what my view is because it's a little tetchy. I always hear the word "privatize" and I have nothing against privatization, but why can't the public own and have something that competes? For instance, if the powerhouses go up for sale, why can't Thunder Bay buy Ontario Hydro's powerhouse in Thunder Bay, which is gas-fired, make it more efficient and it's owned by the utility and is going to be competitive? I think the key to Ontario Hydro in some areas, perhaps generation and energy services, is competition, not necessarily privatization but competition.

**The Acting Chair:** Jenny, do you—

**Ms Jenny Carter (Peterborough):** I don't have any time to cover what I wanted to ask, but welcome.

Hydro's cutting back on cogeneration and non-utility generation because at the moment it has an oversupply. I was just wondering whether you thought that's good policy in the long run, because some of the nuclear stations may not be able to continue performing for very long unless huge amounts of money are put into them, and maybe we should be looking at these other sources of supply.

**Mr McCaig:** The last part of the question again, please.

**Ms Carter:** At the moment we rely quite heavily on nuclear, so that although we have a surplus, if, say, some of the Bruce units go down because either they go down or we spend \$3 billion on them, won't we then need other sources of supply such as cogeneration, which also has other advantages, as you know, such as environmental?

**Mr McCaig:** I think sometimes we make a mistake



looking too far to the future, and I have to reiterate this or underscore this on the basis that this was a mistake that Ontario Hydro made. They were always looking 20, 25 years into the future. Sometimes I wondered if they could walk on water also, but nevertheless I think we look too far, Ms Carter, to the future sometimes, on that basis.

Big is not necessarily better. Darlington is a classic example of that, an engineering monstrosity. Rather than have big, why not have smaller units that are erected much more quickly and put into service much more quickly, and why look to future needs 20 years down the road? Four, five years ago we never would have dreamt we were going to run into this recession we got. Everybody was looking at the predictions. I know I ask our economist, and they're afraid to predict anything any more. I think small will be the answer and probably be the answer to the problem.

**Ms Carter:** So we have to keep our options open.

**Mr McCaig:** Yes.

**The Acting Chair:** A short supplementary.

**Ms Carter:** This leads me on to the next question. We're trying to keep costs down, and of course it's Darlington in particular and nuclear in general that have put prices up by putting Hydro into debt. Isn't there a paradox here that we want to decrease demand over the long term? I think everybody would agree with that about the long term, for environmental and cost and all kinds of reasons, so if, by letting the prices go up, we discourage demand, wouldn't that be constructive in the long run, encourage people to use less and also help Hydro not to go bankrupt?

1100

**Mr McCaig:** I guess it would be very effective, but whenever it hits the pocketbook, I have to question it a little. The thing is that if we can in fact sell energy at cost to the end user, whether the end user is a business or a residence, I think—

**Ms Carter:** Is it cost or less than cost? That's what bothers me.

**Mr McCaig:** Well, at cost; I'm saying power at cost.

**Ms Carter:** You're selling it at less than cost.

**Mr McCaig:** But we have a problem when we talk about power at cost, because there are so many other charges and everybody's grabbed on to that and milked it for a bit. For the sake of business in an industrial area like ours, I think we have to keep the energy costs down.

**The Acting Chair:** Mr McCaig, I'm afraid we're out of time, if you could just wrap it up very quickly.

**Mr McCaig:** I would hate to have the finger pointed at us because we've chased business out of the province.

**The Acting Chair:** Thank you very much, Mr McCaig. We wish you well and thank you very much for coming in. If you want to take a seat at the back there, we will be having a vote shortly. We appreciate you taking the time.

**Mr McCaig:** Thank you.

**The Acting Chair:** I would like, if I could, to call for a motion to concur with the appointment.

All in favour? Unanimous.

And now there is a little bit of business. With the committee's indulgence, there are a couple of appointments I wanted to discuss with you.

John Kelton, the intended appointee as a member of the health research personnel committee, was selected for review by the government, but he was unable to attend on June 23 since he was lecturing in Halifax, and he likewise had a previous engagement in New York on July 7. He has indicated that some time in the fall would be the earliest he would be available.

One of the other intended appointments, Bruce Davidson, the intended appointee as a member of the University of Waterloo board, who was selected by the official opposition, was unavailable on June 23 since he was attending an arbitration hearing in Kitchener, and today he is negotiating with General Seating in Woodstock and was not available. He has not indicated a time when he might be available.

At the time of the original selections on June 15, there was no indication to extend the approval dates for the appointments. Also, when this was discussed by the subcommittee on June 23, there was no indication at that time for a need to extend the approval dates for the appointments, which means that the appointments would go through automatically on July 15 without a review by the committee, pursuant to standing order 106(g)12. I would suggest that if there are any comments from the members on how we would like to proceed, then the Chair is open to some suggestions.

**Mr Curling:** The opportunities we have to interview candidates, so-called candidates, who come before us are quite limited. We know we can't interview everyone; it's unfortunate. And when the few we do select—although the clerk explained to me their legitimate reasons for not being here, it puts us in a rather awkward position; awkward in the sense of the small role we play in this committee, not a very decisive role really, of going through the exercise of interviewing those who have already been ordained.

Therefore, it's rather disappointing to me that this individual is not here, especially as university boards are going through some rather difficult times. I had wanted the opportunity to put our point of view and our concern to those who would be appointed to boards, especially in the universities, that having maybe endorsed or confirmed that appointment, they go back



to that board understanding the importance of the concern we have here. We have been deprived of that today.

I wouldn't really like to see that we hold up a board. There are many, many positions, I gather, that are waiting to be confirmed, and this is the process. Repeating myself, I'm saying it's unfortunate that the individual is not here for us to do that, but in the meantime, I would like to see the board have its complement. But again, it is of great concern to our party, the way some of the boards at universities are being conducted and the letters and concern we're getting from other people.

**The Acting Chair:** So are you suggesting that we do anything, Mr Curling?

**Mr Curling:** The clerk described to me, in all sincerity—maybe we should go through with that one, because he won't be able to be here until what time, if he were called back?

**The Acting Chair:** Mr Davidson hasn't given a time that he might be available because he's in negotiations, so he doesn't know how long they would be.

**Mr Curling:** As I said, that's quite a legitimate reason for not being here and it's not his fault, really. It is serving in another capacity.

**The Acting Chair:** Would you like the clerk to suggest that when he does become available, he advise the committee?

**Mr Curling:** Do they have any vacancy on the board now, or is this of extreme importance?

**Mr David Pond:** Yes. This gentleman is one of a number of people being appointed at the same time to the board of governors.

**Mr Curling:** How many in total?

**Mr Pond:** I'd have to check the record, sir, but I know there's a bunch.

**Mr Curling:** But those have been appointed and they have gone through?

**Mr Pond:** I believe so.

**Mr Curling:** So he is the only one who has been called?

**Mr Pond:** Yes.

**Mr Curling:** Then I would prefer that we wait for him to come back, and see if we can get another date for him.

**The Acting Chair:** Any comments?

**Mr Rosario Marchese (Fort York):** Just to be clear, can we hold up this appointment or does he automatically become a board member?

**The Acting Chair:** Automatically.

**Mr Marchese:** So what Mr Curling is saying is that in spite of that, he would like him to come in front of the committee so he could ask those questions. Is that what he's asking?

**The Acting Chair:** What can happen is, it can become automatic or we can put a request in that it be withheld. If there is no request, it's automatic.

**Mr Marchese:** I personally wouldn't want to necessarily hold up appointments. I know how difficult it is for boards, agencies and commissions, usually. When they're asking for positions to be filled, there's usually an urgent need for that. We get to interview only 5% or 10% of all of the candidates anyway, so over 90% of the people are never interviewed, in any case.

It would seem to me that members will always have an opportunity to interview that new appointment that is about to go into that board because there are rotations. My sense would be that we not hold that up, because there will be other opportunities for other members to interview other people. My sense at the moment is not to hold up that appointment and to simply go through with it.

**The Acting Chair:** Bob, you have a comment?

**Mr Huget:** First of all, I would like to respond briefly to Mr Curling's allegations that I was a better golfer than a politician. That title clearly belongs to the member for Nipissing, and he's entitled to it.

I would concur with Mr Marchese's comments and would also not like to hold up appointments. On a point of clarification, are we dealing with two separate appointments?

**The Acting Chair:** Yes.

**Mr Huget:** I would like Mr Curling to perhaps suggest whether he was implying that one of them should be called back and not both of them, or what.

**The Acting Chair:** There are two. One was selected by the government, so the final decision on that one would be the government's; that's Mr Kelton, who has been away on the two occasions. The other one is from the official opposition, so the decision rests with the official opposition on what it would like to do with that appointment.

**Mr Huget:** May I ask another point of clarification? In terms of the legitimacy of people not being able to attend these committee hearings, what has been the standard practice of the committee?

**The Acting Chair:** What has happened is that when requests have been put in, most people have come back with an answer, like Mr Kelton, who has said that he's been in New York, he's lecturing in Halifax and so on, and Mr Davidson is in negotiations with General Seating in Woodstock. They haven't said, "No, I don't want to come." There are legitimate reasons, and of course you're talking about distances coming in. That's why, in the case of Mr Davidson, being the official opposition's appointment, it rests with them. I understand from the discussion from the government side on Mr Kelton, that they don't wish to hold it up and want

to proceed. I just wanted some guidance from the official opposition whether you'd like to do the same thing.

**Mr Huget:** Thank you, Mr Chairman. You're most helpful.

**Mr Curling:** I've always taken the position that the cause is greater than the person, and the cause here about the university and the boards is extremely important. I'm not at all worried about holding up an appointment. An appointment is instrumental, mark you, in contributing to an effective board, and that is why we call the individual forward.

I think it is of such importance that, as I emphasize again, as Mr Marchese said, it's only about 10% that we get to interview, to rubber-stamp those who come through. Even with the rubber-stamping, I would have liked to see what kind of ink we're putting on that rubber stamp before we vote or not.

I would direct you, Mr Chairman, to request that when Mr Davidson is available, he come before the committee. I don't want to see him if it's just automatic, because what's the use of getting a sense of what contribution he can make on a board after the facts are done?

**The Acting Chair:** What the procedure is, as I

understand from the clerk, is to put the request in to the Premier's office. We'll do that.

We have some other business as well. The clerk informs me that in discussions with the Chair she felt that, due to the other pressures on members and the need during the vacation season to try to give as much notice as possible to the intended appointees, the committee should suspend its business until the recess, at a date to be determined by the House leaders. I would ask for comments from the members on that.

**Mr Curling:** I appreciate what the Chair is saying, but my response is that, again, people talk about how we can't wait for these appointments because it's holding them up. If we suspend, will that impede in any way the appointments to the board? Will that hold us up confirming the appointments?

**The Acting Chair:** It really won't, because there haven't been any selections made for the two weeks we will be here.

**Mr Curling:** I have no problem with that.

**The Acting Chair:** Okay? All the business being taken care of, I will officially adjourn. Thank you members.

The committee adjourned at 1110.









## CONTENTS

Wednesday 7 July 1993

<b>Intended appointments</b> .....	A-99
Doug McCaig, Ontario Hydro .....	A-99

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

**Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)

**\*Acting Chair / Président suppléant:** Carr, Gary (Oakville South/-Sud PC)

**Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)

Bradley, James J. (St Catharines L)

**\*Carter, Jenny** (Peterborough ND)

**\*Cleary, John C.** (Cornwall L)

**\*Curling, Alvin** (Scarborough North/-Nord L)

**\*Frankford, Robert** (Scarborough East/-Est ND)

**\*Harrington, Margaret H.** (Niagara Falls ND)

**\*Mammoliti, George** (Yorkview ND)

**\*Marchese, Rosario** (Fort York ND)

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Substitutions present/ Membres remplaçants présents:**

Carr, Gary (Oakville South/-Sud PC) for Mrs Marland

Huget, Bob (Sarnia ND) for Mr Waters

**Clerk / Greffière:** Mellor, Lynn



## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 21 July 1993

# Journal des débats (Hansard)

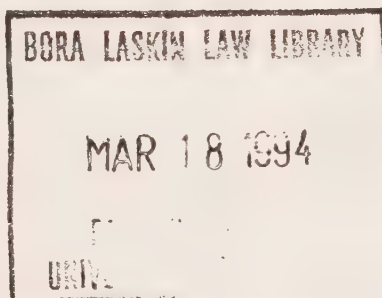
Mercredi 21 juillet 1993

## Standing committee on government agencies

## Comité permanent des organismes gouvernementaux

### Subcommittee report

### Rapport de sous-comité



Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Ministry of Government Services, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, ministère des Services gouvernementaux, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 21 July 1993

The committee met at 1136 in room 228.

## SUBCOMMITTEE REPORT

**The Acting Chair (Mr Rosario Marchese):** I call the meeting to order. We have a report from the subcommittee:

"Your subcommittee considered, on Tuesday 20 July 1993, the selection of intended appointees for committee review."

All of you have had an opportunity to see those lists. Any questions or discussions?

**Ms Margaret H. Harrington (Niagara Falls):** Just a question: When will these people be before us? Over the next three or four months?

**Mr John C. Cleary (Cornwall):** It says on there.

**The Acting Chair:** During the recess. We'll just have to set up the times whenever it will be convenient for those meetings.

**Ms Harrington:** I see.

**The Acting Chair:** I would assume it's the beginning of the third week of August.

**Ms Harrington:** It looks like a lot of people.

**The Acting Chair:** On or before September 2.

**Ms Harrington:** That means we will obviously be meeting throughout the month of August to get through this number.

**Clerk of the Committee (Ms Lynn Mellor):** We normally would do about eight on a given day, so we usually sit for two days. We schedule sometimes six or seven, sometimes eight. It's difficult to get people in during that time because they're away on vacation.

If the committee doesn't have an opportunity to meet, if the House leaders don't give them authority to sit for two days during the month of August, these will expire on September 2 and they'll go ahead automatically and be appointed at that time.

**Ms Harrington:** Thank you for that information.

**Mr David Turnbull (York Mills):** I want to clarify: Is this a subcommittee meeting?

**The Acting Chair:** Yes. No, I'm sorry. This is the committee to deal with the subcommittee report which is in front of you, I think. Do you need a moment to look at the list?

**Mr Turnbull:** No, I've looked at it.

**The Acting Chair:** Any other questions on this?

All in favour of approving the subcommittee report?

**Mr Alvin Curling (Scarborough North):** That's pretty fast.

**The Acting Chair:** Any opposed? Carried unanimously. Any other matters? That was the only issue to be dealt with. The meeting is adjourned.

The committee adjourned at 1139.



## CONTENTS

Wednesday 21 July 1993

Subcommittee report .....	A-107
---------------------------	-------

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

**Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)

**\*Acting Chair / Président suppléant:** Marchese, Rosario (Fort York ND)

**Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)

Bradley, James J. (St Catharines L)

Carter, Jenny (Peterborough ND)

**\*Cleary, John C.** (Cornwall L)

**\*Curling, Alvin** (Scarborough North/-Nord L)

**\*Frankford, Robert** (Scarborough East/-Est ND)

**\*Harrington, Margaret H.** (Niagara Falls ND)

Mammoliti, George (Yorkview ND)

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Substitutions present/ Membres remplaçants présents:**

Turnbull, David (York Mills PC) for Mr McLean

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Ms Carter

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Pond, David, research officer, Legislative Research Service

CA241  
XC 1a  
-351

A-10



A-10

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Intercession, 35th Parliament

## Assemblée législative de l'Ontario

Troisième intersession, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 13 September 1993

# Journal des débats (Hansard)

Lundi 13 septembre 1993

Standing committee on  
government agencies



Subcommittee reports

Appointments review

Workers' Compensation Board

Chair: Margaret Marland  
Clerk: Lynn Mellor

Comité permanent des  
organismes gouvernementaux

Rapports de sous-comité

Révision des nominations

Commission des accidents  
du travail

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Monday 13 September 1993

The committee met at 1030 in the Huron Room, Macdonald Block, Toronto.

## SUBCOMMITTEE REPORT

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to welcome Mr Ali Omar. Please have a seat, Mr Omar. We're going to move a subcommittee report, if you can excuse us for a moment.

**Mr Rosario Marchese (Fort York):** I would like to move concurrence with the subcommittee report.

**The Chair:** All in favour of the subcommittee report dated Thursday, August 19, 1993? That is carried.

## INTENDED APPOINTMENTS

ALI M. OMAR

Review of intended appointment, selected by the government party: Ali M. Omar, intended appointee as member, City of Gloucester Police Services Board.

**The Chair:** Mr Omar, you may wish to address the committee for a few minutes, and then the committee members may wish to ask you some questions.

**Mr Ali M. Omar:** Thank you very much. I would like to say that I'm honoured to be here to meet all of you. I'm here to answer your questions to the best of my ability. I'm looking forward to servicing the community of Gloucester. Thank you very much for the opportunity you are giving me to answer your questions.

**Mr Marchese:** Mr Omar, welcome here today. I tend to believe that being involved in the community in a variety of different ways is very helpful when you're part of a police services board, because my sense is that if you have done a lot of different things you get a sense of community, a sense of the problems, and are able to reflect that in the police board. What do you think your challenges will be, or, at least, what do you think the benefits of that experience will be on the police services board?

**Mr Omar:** I have been involved with the Gloucester police for the past few years, actually since 1987-88. I have experienced a lot of challenges during these years. If I would be sitting on the board, I would use that wealth of experience in promoting the goals we are seeking in Gloucester to service the community the way it should be served, through community policing, for instance.

There are a lot of challenges there and they need a lot of decisions. Being on the board and seeing the information from the other side and being part of the decision-making, I know it's not easy. It will not be easy, but it will be more challenging to me in being challenged all the time in taking the decision.

**Mr Marchese:** One of the challenges, as I see it, is to make a decision on what I'm about to ask you, and it has to do with the Municipal Freedom of Information and Protection of Privacy Act. What this act does is protect the public's right to information held by the police, and the legislation also guards the privacy of personal information held by them. Police forces are required to balance the public's right to know against the individual's rights to privacy. Of course, these come into conflict from time to time, or at least they're seen to be in contraction in terms of how the law is interpreted. Some police boards interpret the right to privacy very differently from one another, or information is given out in one police service board and not given in another jurisdiction.

How would you deal with this issue of what is of compelling interest that would require a police board to give information or not give it, and how would you react in that kind of situation?

**Mr Omar:** I'm not sure, to the best of my knowledge, that the Gloucester police have dealt with that issue so far. If the issue comes about for the Gloucester police board to deal with, I would recommend that a consulting process be undertaken in which not only the members of the police force voice their opinion but also the public.

From that point of view, we have to have a consensus on what would be the interpretation, because I think the way the legislation is written is subject to interpretation; therefore, let's go back to the community, let's go back to the police force, let's go back to every member concerned about this issue, including the public, and mandate or try to assist the police chief in reaching the appropriate interpretation for the Gloucester police and the surrounding community.

**Mr Marchese:** How would you deal with the whole problem that I think the police face, that is, that they are subject to a great deal of criticism these days by a number of different communities in society where they feel, many of them, that the police are acting very harshly, abusing their power with some communities more than others, and, on the other side, trying to understand how the community may legitimately feel this is happening to them and nobody's listening? You have different people taking different sides; some people saying the police are doing their job, and other people on the other side saying yes, but as they're doing their job they are using force a lot more on some communities than others. How do you balance those two differing opinions, or what would you do to mediate those kinds of conflicting concerns?



**Mr Omar:** There are some elements of all of the above, actually, reported in the media or reflected in some community meetings, whether the members of the community at these meetings are members of visible minorities or blacks or special groups. I think being a police officer is a difficult profession. You want to do your job and sometimes you have to use force to do your job, but when you do it you are subjected to criticism.

I always maintain an opinion, based on my own experience, that some of the criticism may be self-inflicting from the way people see the image of the police officer—for instance, the minority groups—in their own home country. The criticism may not be true within the context of the Canadian society but it may be imported as a feeling from the land whence they came. It may not absolutely be true, the perceived impression of the police force using force unnecessarily; however, in some cases it may be true.

My approach would be not to prejudice any act, deal with an issue when it comes and just start from A and discuss the issue. Painting a viewpoint before dealing with the issue is always dangerous, particularly when you deal with some racial issues here.

**Mr Marchese:** Thank you, Mr Omar. Good luck.

**Ms Jenny Carter (Peterborough):** Following on from that, we've touched on the need for sensitivity as regards different races and so on, and obviously your background helps with that. I think there's also growing sensitivity to the need to deal with domestic disputes and things like that which the police have traditionally been a little wary of.

I'm just wondering how you feel this should translate into police training, how that should be improved to better cover some of these issues such as, for example, the preconceptions members of different races might have and how police could be sensitive to that yet still preserve the ability to keep law and order, obviously. How can we tackle these problems in the training of police?

**Mr Omar:** I think, from the training point of view, the best approach is an outreach approach. Seeing a police officer all the time having a gun and in uniform doesn't help the perception; it's seeing the police officer as the law enforcer only, not a human being. The other point is that the police officer is always under a microscope and every action the police officer makes is magnified.

1040

Outreaching and approaching, getting close to the community, I think should be part of the training, and the training should be mutual information exchanged rather than just one side telling the other side what to do and what not to do.

In Gloucester police we have, through some commit-

tees, implemented some measures for outreach. For instance, in summer employment of students part of this summer's employment was from visible minorities, and the beauty of that is that once you get a person working with the police, they feel what the task is all about and they go back to their community and describe their feeling and experience. I hope that experience is positive so it is reflected into the community positively and the entire community looks differently at the police force. I think this is the best way of educating the community about the police force.

**Ms Carter:** I suppose the actual hiring from minority groups too will help.

**Mr Omar:** I believe in the Gloucester police, yes, we have some blacks, we have some visible minorities and we have women; I think we have some disabled people. We still didn't fulfil the 50% of women in the Gloucester police, but I think the chief and the previous chief, Chief Thompson, worked very hard to fulfil the equity in the Gloucester police.

**Mr John C. Cleary (Cornwall):** Welcome to the committee, sir. Just a point of information: Who approached you or how did you go about applying for this position?

**Mr Omar:** I saw an ad in the Citizen asking people to apply for the position. I said, "Well, that's another ad." I didn't apply when I saw it, but Sergeant Savage, who's a sergeant in the Gloucester police, picked up the phone and called me and said, "Hey, did you see that ad?" I said yes. He said, "Did you apply?" I said no. He said, "Why don't you apply?" I said, "Let me think about it."

I thought about the responsibility, relating to the first question, to be on the other side of the fence, and after really thinking about it I thought I could help in this capacity. Therefore, I submitted my application.

**Mr Cleary:** In a previous question you talked a little about this. You must come on to that board with a number of things in mind. What changes would you like to see?

**Mr Omar:** I think the Gloucester police are on the right track now, and I'm applying for the Gloucester police board. It's on the right track in the way of outreach community policing; they have done quite a bit in that regard, and if I were to be on the board I would enhance that process and encourage it more.

Another issue coming, actually, in the region is the regionalization of the three police forces: Ottawa, Nepean and Gloucester. That will be a big issue. If I were to be on the board, that will be the one we'll be dealing with in the next while.

**Mr Cleary:** I don't know how it is in Gloucester, but I know that in other areas some of the auxiliary police don't think they're used as much as they should be. What's your opinion on that?

**Mr Omar:** Can you give me some examples?

**Mr Cleary:** In the little bits of information I have from a few areas, they feel that police officers are being tied up maybe directing traffic or doing things at parades or a number of events, where they feel that the auxiliary police, almost like the volunteers, could be doing that job.

**Mr Omar:** I think this is an issue under discussion for the region, effectively: Is it effective and efficient to use a police officer just for traffic control or actually use some auxiliary services in the community to do that and then when it comes to enforcing the law you use a police officer. These issues are subject to discussions now in the region.

However, I have to admit there is a police officer in the Ottawa police who, every time there is festivity or anything in the city, this police officer is there and he's singing on a guitar, and this leaves a positive impression on the community. That doesn't mean he's not doing his job, but the job he's doing is a communication job. In my opinion, that's equally as important as having the gun to arrest a robber or something.

The job has to be balanced somehow, and the facilities and the services in the entire region or in the communities should be utilized to their maximum efficiency and effectiveness, including the service of the police.

**Mr Cleary:** I guess they were commenting from a taxpayers' point of view more or less. My last comment would be, your police officer who does that is a pretty good entertainer. I've heard him many times. My colleague has some questions.

**Mr James J. Bradley (St Catharines):** There is a perception in the eyes of many in the police force and perhaps in the public that the police are being restricted in what they may do to carry out their responsibilities. On almost a monthly basis there's something new that they can't do. Those same restrictions, of course, are not put on the criminals.

What new restrictions do you see happening in your part of the province as a result of your participation on the board? Are there any things you would further limit the police in doing?

**Mr Omar:** I stated, actually, that the police job is a profession, and I would do my best to honour that profession and get it respected by the community. It's not the imposition of limitations. I think it's to highlight the accountability, a responsibility for the actions. In my line of job, sometimes I leave a paper trail for an audit to be conducted on my financial performance later. That doesn't mean I have to be scared every time I sign an invoice, but at the same time I'm being accountable for my actions, and that's a point I will actually emphasize. It's a profession. Every action should be accounted for, and it has to be respected.

**Mr Bradley:** Okay. In this question I want you to read the words "the Franklin House" as whatever is the toughest bar in Gloucester." Do you believe that all officers who are hired in the police force should be able to break up a brawl at the Franklin House tavern, or whatever is the toughest tavern in—

**Mr Omar:** Actually, the toughest one is in Hull.

**Mr Bradley:** I've been told that by others. That's a question it comes down to very often. You know, it's nice to have as many people on the police force as possible, until you say, "Should everybody on the police force who's an active police officer be able to break up the brawl in the toughest tavern" in whatever jurisdiction they happen to be in.

**Mr Omar:** It depends on the degree of this disturbance in the community and how far did it go. If it's just skirmishes between teenagers and stuff like that for the fun of it without harming either the property or the community, that happens, I believe, everywhere. But if it gets out of hand, I would assume some order has to be maintained.

1050

**Mr Bradley:** Let me put it this way. I wouldn't be a very good police officer, because of lack of height and lack of the ability to fight or exercise physical strength. More and more, we are seeing a call to have more people on the police force, so they start breaking it down from the old stereotype of the six-foot-two, 220-pound, strong person who is there to bring about law and order. That's why I'm asking, do you think everybody who's on the police force should have the physical ability to be able to break up that brawl with the local motorcycle gang or whoever it is who's fighting in the tavern?

**Mr Omar:** I was in a course, actually, in interpersonal communication. The professor who was delivering the course has dealt with a hostage-taking where there was a hostage-taker and the entire police force was surrounding the area and they couldn't do a thing, with all their might. They invited that professor because he was a good communicator, and he communicated with the hostage-taker and resolved the issue. So we have to look at the tools necessary to resolve problems at the time of that problem happening. It may be some communication with some teenager convincing that teenager to get out of it will solve the problem.

**Mr Bradley:** I don't know if anybody has asked you this. If they have, just say you've been asked the question. There's a movement to allow police to participate actively in the political field. Do you believe that police officers should have the right to participate in the political field, and if so, what restrictions should there be on that participation?

**Mr Omar:** That's a toughie, because I personally am a federal public servant. I work for the federal



government. The issue is a conflict of interest. As a public servant, I'm less under focus than the police officer. They will be more in the spotlight than myself, and any slight appearance of conflict of interest may hurt the cause of the police officer. So I have to be careful to make some judgement on that issue.

**Mrs Elizabeth Witmer (Waterloo North):** It's a pleasure to have you here. I'd like to focus on the employment equity, after spending four weeks on that committee. As you know, all the police forces in Ontario have been involved in preparing an employment equity plan, and I'd certainly like to ask you what your views are on employment equity as it relates to the aspect of policing.

**Mr Omar:** I believe the spirit of the employment equity is in the merit. In my opinion, as long as we don't sacrifice the merit issue, the competence, therefore we can live with this. It's not a quota system, and it cannot be a quota system. You cannot just fulfil the numbers because of some selection criteria, but you can direct your policies to fill the required number based on competent people. In this business, competence is required. You cannot sacrifice merit or competence. You have to be competent to do the job of a police officer.

**Mrs Witmer:** I guess one of the difficulties has been in attracting some of the designated groups to policing. Obviously there needs to be something done in order to recruit or attract those individuals. What do you think can be done in order to make this career, this profession, attractive to those individuals who traditionally have not been attracted to policing?

**Mr Omar:** More communication, more on-the-job communication or training. In the example I just mentioned, hiring a summer student, the majority of those summer students were from visible minorities, actually, and they had the experience for three months of dealing with the police officer. Sometimes they go in a cruiser and experience how the police officer works. It reflected a very positive effect on these people, so when they go back to their mother or their grandmother—and I mean that word, because in some communities the mother and grandmother take the decision, not the individual. They go back and tell their parents: "Hey, wait a minute, this is not the stereotype that we're used to. This is different. These are real people. They are there to do a professional job and they are doing it right. They are not just an instrument of the government, as they are in the good old countries."

The stereotype is coming actually from the community, not from the police. That's why when it comes to some friction between the police and some designated groups, as I said, maybe the stereotype is coming from the community, not really from the police. We have to deal with that issue very carefully, because it's dynamic. It's very critical.

**Mrs Witmer:** I think you've made a very good point in referring to this student employment opportunity these young people have had. Do you know how widespread that program is where young people have a chance to more or less job-shadow and really become aware of what the job entails?

**Mr Omar:** Within the region, I'm aware that the Ottawa police have implemented this program. It has been successful as well. I'm not sure about the Nepean police. We have repeated it for several years, several summers, and the fruits of that was the employment as police officers of some of the minority people. Actually, you have two blacks and one visible minority now in the Gloucester force.

**Mrs Witmer:** I find your comment interesting that oftentimes it's the female in the family who helps to make the career decision. So really the entire process has just led to a better understanding and increased communication.

**Mr Omar:** Absolutely.

**Mrs Witmer:** With the amalgamation of the police forces, do you think it's going to have a plus or a negative effect on employment equity as it's happening in the region?

**Mr Omar:** From that point of view, from the employment equity, I don't think it will have an effect—it may have an effect on some other points—the reason being that Ottawa, Nepean and Gloucester are all committed to this approach. You can go to the Ottawa police and see the diversity of colours and accents, and the same for Nepean and the same for Gloucester. So getting a regional force, I don't think you will harm this principle of employment equity.

**Mrs Witmer:** What are some of the other problems that you do anticipate as a result of the amalgamation that need to be resolved?

**Mr Omar:** I don't think there's a problem, but there are some concerns. You will have a kind of centralized service with different satellites of different interests. If you are in the region, you will immediately realize that the community in Ottawa is different from the community in Nepean, different from the community of Gloucester. If we are talking about community policing that will fulfil the needs of community, therefore you have to centralize but perhaps leave satellite services in localities to look out for the interests of the local communities. That's a scenario which could be adopted.

I don't see major problems. I think there will be some issues that need to be discussed and resolved.

**Mr Allan K. McLean (Simcoe East):** I'm getting a different story here. Back in April 1991, Mr Farnan made the announcement and he had until May 1992 to bring in a plan with regard to meeting hiring quotas for prescribed groups. You're saying now that that is not the policy of the Gloucester police, that you're hiring



based on ability? Is that right?

**Mr Omar:** No. Perhaps I didn't explain myself quite well. What I'm saying is that employment equity as a target is not a quota, meaning that you have a composition of the community with certain percentages represented in the community and we would like to get these percentages represented in the police force. You have to go through the recruitment procedure and the hiring practices to make sure that whoever you hire is competent and has the merits of being a police officer. You don't have to have the quota fulfilled tomorrow, because if you do, you will hire incompetent people. I think the principle is there, but they are implementing the policies, long-term policies be it, but for the long term to prove that the police are really representing the community they serve.

1100

**Mr McLean:** Some of the local police forces have been adopting a policy to release information to the media when they let sex offenders out so that the people in the community are aware of that. What would your view be with regard to that? Do you think all police forces should do that?

**Mr Omar:** That's a hot issue and it touches on the privacy act—it might touch on the privacy act. My opinion is, we have to deal with cases on a case-by-case basis and we may seek the opinion of professionals in dealing with these matters as well. As a board member, if I were a board member, I will seek the assistance of people from other professions to give me a better assessment of this issue.

**Mr McLean:** With regard to the use of weapons, when they draw their guns in public, this policy now, of 30 days, the name still on the list: Do you believe this is a good policy or do you believe it would be better if they didn't have to fill out a report?

**Mr Omar:** As I said earlier, it's a point of accountability. If the police officer is a professional, responsible for his act, it doesn't matter whether he will write a report or answer verbally to a committee. It doesn't matter because, in his opinion, he did what he had to do in accordance with the procedure and policy. Whatever action he's doing, he can defend, whether in writing or orally. It's a profession.

**Mr McLean:** The final question I have is: As chair of the police services advisory committee on visible minority recruitment, do you think you would have more input as a full member of the board rather than as chair of the committee you're chairing? I think it's a pretty important committee that you're chairing.

**Mr Omar:** Actually, it was an important committee, and we pointed out some elements in current procedure which have been changed already. I believe perhaps that was one of the elements of why we see some visible minorities now in the police force, by the way. I have

to make it clear, not because of the colour of my skin, that I will be defending all the visible minorities. The difference now is that on that committee I was representing a community, my community; when I'll be on the board, I will represent Gloucester city, and that's the big difference between the two roles here.

**The Chair:** Thank you, Mr Omar.

DAVID HOBBS

Review of intended appointment, selected by the third party: David Hobbs, intended appointee as member and chair, Toronto Area Transit Operating Authority.

**The Chair:** Welcome, Mr Hobbs. If you would like to address the committee for a few minutes, then we will go in rotation and they can ask you questions. If you have opening comments, that's great.

**Mr David Hobbs:** I don't really have any extensive opening comments. Basically, I do have the qualifications and a lot of relevant background experience that will put me in good stead in serving as the chair of GO Transit, particularly in the transportation field and the municipal field. That's very much what GO Transit is involved with, so I think I do have some relevant experience that I can bring to bear. Perhaps I can just leave it at that for members to ask questions.

**Mr David Tilson (Dufferin-Peel):** Mr Hobbs, I'm pleased to see you again. My colleagues have permitted me to ask this question of you. I geographically represent the north half of the region of Peel and, as you know, the north is the town of Caledon.

The town of Caledon currently has no GO Transit. The last of it was taken away this September for austerity reasons. I had appeared before the GO Transit board on two occasions to hopefully get a GO bus system to the northwest and southwest section of Caledon. I had been scheduled to come back this fall, only to find out, of course, that the board, in its wisdom, had decided to take away the line that runs through Bolton through Palgrave.

I raised this issue in public accounts and of course the Provincial Auditor is going to do an audit of GO Transit, which I'm aware of. In fact, Mr Parsons is appearing before the committee this Wednesday.

I have an invitation for you. I hope you will be appointed to this board; I wish you well if you are. If you are appointed, if you are successful, I would like to have an opportunity to take you around the town of Caledon, to show you the areas and the need for GO Transit, particularly in the town of Caledon. If you're appointed, would you be prepared to do that?

**Mr Hobbs:** Yes. In fact, one of the first things that, if I were appointed, I would want to do is to become more conversant with some of the details of the cuts that have taken place. I haven't up to this point in time, although I've read about what they are. I'd really like to become more up to date on the whole area that GO



serves and some of the pressures and some of the concerns that are out there, in terms of either existing services, services that have been cut, or potentially new services, because I hope the situation that GO is in right now is one that reflects the economic situation the province is in and also the fiscal situation the government is in. Hopefully, we can take a look at cuts that have taken place as not necessarily being permanent and that there will be a time when some of these services potentially can be restored and others put into place. One thing is certain: If the whole area that GO serves is going to continue to be a viable and thriving economic area, then GO Transit is going to have to expand over the next few years in order to provide those interregional links.

Transportation is not an end in itself. It's a means to some economic and social ends. If the whole area is going to function effectively, both socially and economically, then there's going to have to be an opportunity to take a look at the kinds of services you feel are needed in the area of Caledon.

**Mr Tilson:** I look forward to taking you around. Thank you.

**Mr McLean:** Madam Chair, I had a few questions, but I can see that the answers are going to be long, so I'll kind of get to the meat of the questions I had near the end. I can see you're going to use up our 10 minutes before we get much of a chance.

I can also assure you that you have been appointed; we're just really reviewing your appointment. There's no "if" about it. The committee has never turned down an appointment yet. I think you're safe.

Until recently, you were the Deputy Minister of Transportation. Are you still receiving pay for that position?

**Mr Hobbs:** Mr McLean, as Deputy Minister of Municipal Affairs, I was offered an early retirement option, which I took and, as has been reported in the newspapers, part of that is the continuation of salary to the end of this year.

**Mr McLean:** Do you intend to draw salary as the chairman of GO, and what salary has been negotiated?

**Mr Hobbs:** I have waived the stipend that goes with the position. What I would receive is the per diem.

**Mr McLean:** Your answers are getting shorter. Now I'll ask you about the amalgamation: The minister in 1993 wanted a task force to study the amalgamation of the 17 systems. Briefly, could you state what you feel the needs and the impetus of this are?

**Mr Hobbs:** We have an area with 4.5 million people and growing. We have 17 transit systems. We only have one that serves an interregional function, which is GO Transit. We have a situation where there are, I'm told, approximately three million people who are walking across the northern boundary of Metro Toronto to go

from one transit system to another. While there've been attempts in the past to put into place some fair integration schemes, there have been very few experiments with service integration. I think a lot of people believe there is a lot of room for greater integration of the transit systems that serve the greater Toronto area.

1110

I think there was one undertaken under the Liberals, which resulted in something like the twin pass, but the results from that were not very significant. This committee is designed to take a look at, as I understand it, some of the same issues. I would hope it can come up with some recommendations which can be put into place because, personally, I believe there are opportunities for more integration, both from the fare and the service level. I think it's a matter of time. It's something that's going to have to happen to have better coordination among the systems serving the area.

**Mr McLean:** Is this same committee going to be looking at the sale and the leaseback with regard to the GO rolling stock? There is some talk of a sale and a leaseback on GO.

**Mr Hobbs:** I think that's being handled—I don't know for sure—separately by GO Transit and the ministry and treasury board.

**Mr McLean:** Do you look favourably upon that type of activity taking place?

**Mr Hobbs:** Honestly, I don't know the details, but if it can save the government money over the longer term, then I don't think the risk associated, that I saw in the papers once, of some potential loss of control over the equipment is that great.

**Mr McLean:** A lot of the GO users use daily parking. There's been some discussion with regard to free parking. Do you believe that, with the financial situation of GO, there should be a charge for parking?

**Mr Hobbs:** It's a difficult issue. It's one that's been around for quite some time. The main objective is to try to get people out of their cars and into transit. I think the free parking is part of the overall GO scheme. It certainly makes that service more attractive and I would hope the fiscal situation or the financial situation doesn't get to the point where people have to seriously consider parking fees.

**Mr McLean:** What do you see as the major problem at the present that you're going to face as the new chairman of GO?

**Mr Hobbs:** I think the major issue is going to be the financial issue in the short term and in terms of trying to maintain a high-quality service at a time when there are cutbacks.

**Mr McLean:** Do you anticipate some line cuttage, routes running less?

**Mr Hobbs:** They've already done a review and have introduced some service cuts. Frankly, from the

standpoint of maintaining the integrity and the effectiveness of the system, I hope it wouldn't have to be entertained again. It's really tough. Once you start cutting services, you cut back on the attractiveness of the transit system. Sometimes it takes a very long time to get ridership back.

**Mr McLean:** What about further cuts with regard to the GO trains such as the one to Caledon and the one to Barrie? I guess the one to Guelph has been cut. Do you see further cutbacks in those lines?

**Mr Hobbs:** I would hope not.

**Mr McLean:** Other than with regard to the finances, are you looking at any major upheaval within the TTC?

**Mr Hobbs:** I think one of the main things that's going to have to be dealt with is the recommendations of the task force that's been put together on integration. I would hope they can come up with some solid, viable recommendations, but it's going to be a challenge for both organizations.

**Mr McLean:** Do we have input into that task force?

**Mr Hobbs:** Mr Parsons will continue on with representing GO, but obviously, as chair, I'll be involved in any discussions that take place around the GO boardroom.

**Mrs Karen Haslam (Perth):** I have a couple of questions. There was a recent article I saw in the paper regarding the TTC and the fact that they have undercover officers in the TTC because the majority of TTC passengers are women and they are concerned about their safety. Is that a factor in GO Transit also?

**Mr Hobbs:** Absolutely.

**Mrs Haslam:** My colleague here thinks that women should not be allowed out after 10 o'clock and he figures that would really solve the problem, but I don't happen to agree with him. I wondered if you had some comments on what could be put in place to give women a more secure feeling. I know I work till 11 o'clock and I know there are women who work past 6 o'clock or past the daylight time. Have you thought of any changes that could be put in place to make us feel more comfortable in those situations?

**Mr Hobbs:** First of all, in terms of your colleague's view, I don't think it's enforceable.

Security has obviously got to be a major concern. I'm not totally sure of the details. There is a separate security force for GO that was established some time ago. Whether they have a number of undercover people like the TTC article, I don't know, but there was a very tragic situation involving a young woman a couple of years ago, as I recall, and I've got to believe that GO has responded and put into place policies that hopefully are designed to prevent that from happening. But obviously in today's world security has got to be a very, very top priority.

**Mrs Haslam:** I'm also concerned because I have a niece who travels in to Ryerson and therefore she takes the GO, and if it's a late class—it's not just women. It's young people, especially young women.

One more question: What do you think the most important goal for GO Transit would be in the future?

**Mr Hobbs:** I think there are two: One is to try to maintain the very high level of service that has made it one of the most successful interregional transit systems in North America, and the second is to implement the planned expansions of service to help it continue to serve the economic and social development of the area it operates in.

**Mr Marchese:** Mr Hobbs, you touched on many of the possible questions that I have and others might have, but I'm going to ask anyway in the hope that we might get some different approaches or answers.

In 1992, GO managed to cover almost 62% of its operating costs from revenues, which means there's a shortfall. There will continue to be shortfalls, I suspect, with all of the attendant problems that come with that.

You talked about continuing to provide a high level of service. It's difficult to continue providing a high level of service, of course, if we're cutting back. Because we're losing revenues, we have to cut back somewhere, and we haven't yet found a way to recover those costs. So a high level of service doesn't seem to be what the answer is, although we need to try to do that. But are there no other answers from other Canadian jurisdictions or European jurisdictions in terms of how they have managed to deal with these kinds of problems that we're facing now?

**Mr Hobbs:** In Montreal, the provincial government provides 100% of everything for the Montreal interregional—at least, I think they still do. That's going to be very tough. The 62% number that you mentioned is very high for a transit system of the nature of GO Transit compared to other transit systems, in North America at least. There are going to be real pressures to maintain that, and I guess one can hope that through reasonable use of the fare box as a contribution, the continued ability of the provincial government—and hopefully being able to attract more riders and to improve the ridership is going to be one of the main challenges in terms of increasing the revenue that comes out of the system.

The opportunity is there, I think, because we're not going to be able to build much more in the way of highways in this area—

**Mr Marchese:** True.

**Mr Hobbs:** —and GO Transit was initially put into place to try to take the pressure off some of what were perceived as the roadbuilding needs. But if you can get an attractive service and if the economy does improve, then hopefully the system will be able to increase



ridership. It has increased, up until recently, every year, but there's a ceiling, and it takes an awful lot of good operation and marketing to try and get people out of their cars and into transit.

1120

**Mr Marchese:** Do the fares compare relatively well with other jurisdictions within Canada? Are our fares higher than other places? Lower? Is there room to increase fares as an answer?

**Mr Hobbs:** I don't know. I'm a little out of touch on them.

**Mr Marchese:** The service reductions as an answer to make up the shortfall is, I think, causing greater problems in a number of different ways in terms of the increase of personal use of automobiles, which we're trying to discourage. That in itself is an environmental problem that we'll have to face. There are the questions that people raised about regional planning implications in terms of housing costs, real estate values and so on. When we get into service reduction as an answer, in fact it causes greater problems both for governments and people in general which will be more difficult down the line to solve.

**Mr Hobbs:** You've raised an interesting point in terms of transit serving the land-use planning objectives of both the province and the municipalities it operates in. Obviously, transportation is very important in helping achieve that, whether it's going to be nodal development or intensification in the greater Toronto area. In the short term, I agree that some of the cuts are going to make achieving those objectives more difficult, and one of the major challenges is going to be to see how you can ensure that transit development and service actually continues to contribute to a lot of the broader land-use planning goals that even areas like York region may have some day.

**Mr Marchese:** I wish you luck, Mr Hobbs.

**The Chair:** Thank you, Mr Marchese. No further questions from the government? You have some time left. All right, thank you very much.

**Mr Bradley:** Don't forget: Any from our party?

**The Chair:** I'm sorry. You do.

**Mrs Haslam:** We're sorry he does too.

**Mr Bradley:** Yes, you may be at the end of these questions.

Was your predecessor, Mr Parsons, fired? Is that how you came into this position? Was he asked not to renew his position?

**Mr Hobbs:** Well, I think his three-year contract that the Liberal administration put into place came to an end at the end of June. That's my understanding.

**Mr Bradley:** And he was not asked to resume that position.

**Mr Hobbs:** That's my understanding. Mr Parsons

had been the chair of GO Transit for quite a number of years.

**Mr Bradley:** In your circumstances, Mr Hobbs, were you asked to retire by the government? Were you one of several deputy ministers asked to retire?

**Mr Hobbs:** I was offered an early retirement option.

**Mr Bradley:** So how—perhaps I can ask it this way. I'm interested in general rather than specific, and you can help me out this way perhaps. When the government says that to somebody, does that mean they pretty well have to take the option?

**Mr Hobbs:** They can go to court.

**Mr Bradley:** Okay. That does answer the question. That's very helpful in terms of looking at a number of people who are in the same position as you and trying to figure out what had happened in that instance.

**Interjection:** Twenty-eight.

**Mr Bradley:** Twenty-eight is the figure that my friend says. I'm not certain. Looking at the operation of GO Transit, at the leaseback proposals the government has, isn't this just a way of getting its debt off the books so it looks better, rather than being any great advantage to GO Transit?

**Mr Hobbs:** Well, it's one way of getting debt off the books and, as I said, from my understanding there is a financial advantage over the long term to the government. But in terms of getting debt off the books, that is being done with several other corporations, and that is a method of finance that is used in some other jurisdictions. I'm not an expert in what this means in terms of accounting.

**Mr Bradley:** Okay. I'm going to jump from thing to thing because there's such limited time, so it may be a bit disjointed, but it has to be that way.

Here's an interesting question from a planning point of view. Do you believe that extending GO Transit service to areas beyond the GTA will in fact put pressure on those areas for the development of prime agricultural land?

**Mr Hobbs:** That could. I think there's another side to that, though—I think we have discussed this around a cabinet table before—and that is trying to ensure that there are good planning practices in place and that there are very solidly based land-use plans that hopefully direct development away from prime agricultural land.

**Mr Bradley:** So that we don't annoy any municipality, I'll use the word "Utopia." But there's even some-one flogging Utopia, I believe.

**Mr Hobbs:** There is one, yes.

**Mr Bradley:** Well, "Utopia" we'll call this one, then, just to be different. Could it be, though, despite all of the restrictions put on the development of prime agricultural land, that by extending GO service to Utopia, what we really do is encourage Utopia to

become a bedroom community of Metropolitan Toronto?

**Mr Hobbs:** Potentially. But again, as I say, it has to be qualified by the type of development plans and restrictions there are in and around that community.

**Mr Bradley:** One of the problems GO has in providing service for people is that there's an assumption that everybody wants to go to downtown Toronto, when in fact you have watched in your capacity with the government a lot of development taking place in places like North York or Scarborough or Etobicoke and so on. How do you see GO Transit being involved in providing service from wherever GO stops to areas other than downtown Toronto? That's the reason many people give for not taking GO, that it's fine if you work in the TD Centre or somewhere in downtown Toronto, but if you work in an office building somewhere else outside of downtown Toronto, it's not as helpful.

**Mr Hobbs:** That has been the reality of the way GO service has operated in the past, but I think there's an opportunity, in terms of different levels of service, to ensure that there are linkages between other communities. In addition, GO operates a lot of buses. The heavy rail is the main link into downtown Toronto, but there is a role, in conjunction with other transit systems, to try to strengthen the links between communities that exist in the greater Toronto area and not simply funnel people into downtown Toronto.

**Mr Bradley:** Do you believe that GO Transit should purchase vehicles, be they buses or trains, which are the very best environmentally even if it means more in terms of the capital outlay initially?

**Mr Hobbs:** That's a good question. I think they have to, in today's environment, purchase environmentally effective vehicles. I can't answer the other part of the question because I really don't know what differences there may be in capital costs.

**Mr Bradley:** Do you believe that it is wise for a government—I'll put it generically because I don't want you to be in a position of passing judgement on administrations. But generically, do you believe it is responsible, reasonable and wise for governments to be spending more money on highways when at the same time they're cutting back on transit services such as GO Transit service?

**Mr Hobbs:** I think we have to have a good highway system in place in the province of Ontario, and I say that not just because of passengers, people who want to travel from point A to B, but roads also serve as the main conduit for goods movement in the province. With the railways in decline in terms of carrying freight, all the pressure is going on to the road system in terms of goods movement, so I think that certainly we have to continue to invest in highways, not just for passengers and for tourism, but for trucks. I know a lot of people

don't like trucks and the image that they portray, but as I said before, with the decline of the railways in carrying goods, those are sort of our main economic lifelines.

1130

You live in St Catharines and you know what travels along the QEW, and the need for improvements for that reason. I think that there has to be continued investment, and hopefully we can strike a balance between what's needed from the standpoint of transit and what is needed in terms of the highway system.

**Mr Bradley:** What kind of coordination do you anticipate with Via Rail? The reason I put it this way is that I have this contention—it could be correct or not correct—that Via Rail or any other rail company in Canada seems to want to get out of the passenger business and does it by a number of different ways and ends up saying, "Well, you don't use the service so we're cancelling it." If you saw how they manipulate the time schedules and everything, you'd see why. Well, you'd well know this. All you have to do is manipulate the time schedules so you can't coordinate trains and you'll know why people don't take them.

The question I ask is, how do you see in the future the coordination of GO Transit with Via Rail to provide reasonable service for people? There seems to be a great opportunity there if you can only get the cooperation with whoever runs Via Rail.

**Mr Hobbs:** I think there have got to be efforts made—I agree with your point, by the way—to try and get much better coordination. GO Transit carries more rail passengers on a given day than Via does Canada-wide. But within this area, I still think that there is plenty of room for much better coordination, and I still believe that the federal government, through Via, has a major responsibility for the continuation of passenger rail traffic in Ontario. I really do not believe that they should be getting out of passenger rail.

**Mr Bradley:** Thank you, Mr Hobbs. I think you'll be a good person for this position with your experience and the answers you've provided.

**The Chair:** Thank you, Mr Hobbs, for appearing before the committee this morning.

CLAUDIA TURNER VSETULA

Review of intended appointment, selected by the government party: Claudia Turner Vsetula, intended appointee as member, Ontario Board of Parole, western region.

**The Chair:** Welcome, Ms Vsetula. If you would like to make some opening comments to the committee, you may, and then we will start the rotation of questioning.

**Ms Claudia Turner Vsetula:** Thank you. I have no opening statement. We can go straight to the questions.

**Mr Stephen Owens (Scarborough Centre):** I'd like to welcome you to the committee today. I have some questions about what is, I guess, after the police, the



second most contentious part of the corrections system, and that is the parole system. Can you tell me about Maplehurst, the average number of days an offender spends in custody?

**Ms Vsetula:** It is my understanding that it's between 80 and 100 days. Under 100 days is the average length of stay.

**Mr Owens:** And what is a cost per day for an offender?

**Ms Vsetula:** Oh, gosh, I would have to take a guess. I would say in the neighbourhood of \$130. I'm not sure of the accuracy of that statement at all.

**Mr Owens:** Looking at your cv, you have an extensive social work background. You've worked with families, children, young offenders as well.

**Ms Vsetula:** That's correct.

**Mr Owens:** Youths in and out of the system. One of the concerns I have is planning for the release of an offender back into society. What are the kinds of things you would see going into a good planning process? What are the kinds of things you would want to see, as a parole board member, in place for an individual who was leaving Maplehurst, for instance?

**Ms Vsetula:** I would like to see the discharge planning or the parole planning process start immediately upon the offender's entrance into the system. It's something that takes some time and is often transitory, depending on the treatment needs of the individual, their assessment of their needs of treatment and how far that has been able to go within their incarceration.

Also, there is the ability to find appropriate places to live, places of employment, rehabilitation programs. They're just not as available as we would like them to be, so we have to do quite a bit of planning. There is staff available within each of the institutions, whether it be clinical staff or probation and parole staff, along with some community agencies that come in that are to work closely with the offenders in terms of putting together a good, solid parole plan.

Often too, something that the clinicians try to do within institutions is to contact the families or the sponsors of potential parolees and talk to them and find out what areas need work, where they need some support to try to build up a good support network. The whole idea philosophically for everyone is to set this person up for success and not failure.

**Mr Owens:** Absolutely. In terms of the type of offender that you would be looking at granting early release to, could you maybe provide a quick profile for the committee? What would be the motivational issues that you would look for, the experiential issues?

**Ms Vsetula:** I think motivation, certainly, and attitude towards their place in life and what they see as their future is one of the primary things one would take into consideration; how they have dealt with their

incarceration this time around. Have they taken advantage of those programs and those people who are available to help them? Have they taken a good, hard look at their criminal history and their family background and those elements that have led to poor decision-making? Have they got a good plan of relapse prevention? They've had to predict. The situations that they have found themselves in the past are still out there, and they need to find out.

**Mr Owens:** Substance abusers?

**Ms Vsetula:** Most certainly. How are they going to handle that differently? Do they have a good sense of personal insight into their strengths and their weaknesses and how they're going to bolster those strengths and hopefully cope better with their weaknesses?

**Mr Owens:** I'm dealing with a situation now with a constituent who was viciously assaulted. The perpetrator is a guest in the federal jurisdiction, not provincial, but do you think there's a duty for the judicial system, be it the government, be it the correctional centre, to notify a victim, especially a victim of violent crime, on the exit date of the perpetrator?

**Ms Vsetula:** I know that there is a system that we have currently, certainly in the institutions that I've been involved in, that if we have any concern about the safety of a victim or of a spouse or of any one related to an offender, we would contact the police in that area.

**Mr Owens:** Is this a formalized system or is it an informal network?

**Ms Vsetula:** I don't know whether it's formalized or not. I cannot speak for all the other institutions in the province, I can only speak for the ones that I have worked within, but we would contact the police in that area, who have the option of contacting this other person and saying: "Look, this person gets out on this date. You need to be aware of that."

I don't know what the parole board does with that because I haven't worked with it yet, but I know that within the institutions, if we have any concern about someone's safety, we let them know.

**Mr Owens:** In terms of a person coming before you and asking for early release, and I asked this before in terms of motivation and things like that, what are the kinds of questions you would want to ask that person? What kinds of assessment would you be looking to make? From what I understand about the system, it's not a long interview.

**Ms Vsetula:** We've got a lot of information in front of us, from what I gather, and there have been assessments done.

1140

**Mr Owens:** How much time would you spend making judgements or decisions with respect to different individuals?



**Ms Vsetula:** Not having been on a hearing, not having chaired a hearing, I would say it depends on the individual. I think some are fairly clear cut and they would be fairly quick, and the ones who require the attention get the attention. As far as I'm concerned, if I have to be there late, I have to be there late. I want to give each one the attention it deserves.

The kinds of questions I would ask: I would want to know, does the offender have a pretty solid grasp of where he's at right now? Does he know whether or not this plan is a good, solid plan? Is he confident in his ability to make some pretty drastic changes in his life? How does he view the supports in his life? What is happening differently this time? What's he learned?

Sometimes it's a matter of an age or a stage for a person. Either they're young enough that they've really been scared or they're a little bit older and they've seen a number of years in jail and they just don't want to retire there; they don't want to spend the rest of their life in jail. We're assessing their maturity and their ability to make rational judgements about their own situation.

You do that a number of ways. Sometimes you just have to ask one question, and you're giving them enough time and enough opportunity to express themselves and give you some pretty good cues there.

**Mr Owens:** Right. Thank you.

**Ms Carter:** I think it's evident that when you are making a decision about a person, you need absolutely all the information you can have about them. It's been suggested that actually the parole board does not necessarily have all the relevant information, that there's a kind of split there. Police might have information, crown attorneys and so on, and it isn't necessarily shared. Do you have opinions on that, and what could possibly be done about it?

**Ms Vsetula:** It's my understanding that they are currently meeting and trying to develop a more efficient paper flow of information. I feel that it is very important to have all the information available, particularly when you're looking at very serious crimes.

**Ms Carter:** Yes. Apparently the board might not have a record of a person's arrest, for example, which seems fairly basic.

**Ms Vsetula:** We may indeed have that information or similar bits of information in other pieces of reports, through the pre-sentence report, through the institution information. There is a number of reports that are available to the parole board, and there might be duplication of those pieces of information. But if something is seen to be very critical, from my point of view, you would then make sure you had that piece of information before continuing with the decision.

**Ms Carter:** Okay, thanks. I'll defer to Ms Haslam.

**Mrs Haslam:** I'm interested in some questions

around the victims of crime. I don't understand a lot of it because I've been lucky not to have had a situation where I've had to follow up on a crime or have been a victim. If per chance I was a victim of crime or my daughter was a victim of crime or a relative was a victim of crime, it would be up to me right now, I believe, in the system to follow when that man's parole or that woman's parole was coming forward. I was wondering what your feeling was. Should I be notified if that person's parole is coming forward, or should it be something that I have to do on my own? That's number one.

Number two, I wanted to know a little bit about the parole board. Do you see the parole board's main responsibility being to the community or to this person and evaluating this person going back into the community?

**Ms Vsetula:** The first part of your question: I think there are two ways of looking at that. Certainly from some victims' point of view, they don't want to have to be the aggressor in terms of finding out when this person is being released and where they're being—

**Mrs Haslam:** Let me make a clarification, because I know in some cases there has been a delegation to the parole board saying, "I want to make a presentation to the parole board, because I don't wish this person to be released." They're usually very prominent cases, but in all cases, do you feel that the victim or the victim's family should have that opportunity, and in order to make use of that opportunity, should they be pre-informed of the parole coming up or should they have to follow it themselves? That's what I'm looking for.

**Ms Vsetula:** Certainly, they have the option if they wish to. I fully agree with that. There are other people who would find that very intrusive, who perhaps have been the victim of a crime, who have dealt with that and are trying to no longer feel victimized, who would find the reminder of that situation very intrusive. I would have difficulty making that decision on their behalf.

**Mrs Haslam:** Okay, fair game. The other one: Do you see—

**The Chair:** Ms Haslam, were you going to ask another question?

**Mrs Haslam:** No, no, I'd already asked it. This is just the second part, about whether the responsibility of the parole board is to the community or to the individual whom you are evaluating.

**Ms Vsetula:** I think it goes hand in glove. Certainly, we have to assess the risk in the community in terms of his risk for reoffence and the seriousness of that offence should he reoffend, but that is also considering the needs of the offender: We're there to set him up for success, not for failure. We're not doing him any favours by putting him in a situation where the risk for



reoffending is high, whether the reoffence be something very serious or not very serious, so I think you're serving both purposes.

**Mr Cleary:** Welcome to the committee. How did you become interested in this board? How did you find out about it? Were you approached to apply?

**Ms Vsetula:** I've worked very closely with the parole board within my role as a clinician in both the Guelph Correctional Centre and as an administrator in Maplehurst, so I'm very aware of it. It's always been a goal of mine. I became aware of this position through a colleague of mine, someone I knew who had said, "By the way, there's a position coming up." I think I probably made it clear to them that when something does come up, to let me know.

**Mr Cleary:** With all the press, and most of it is bad press, wherever you read the newspaper or turn on the TV, do you feel the parole system has lost a lot of credibility with the public and with law enforcement officials?

**Ms Vsetula:** I think we're in a position, I agree, where we're not going to get a lot of positive press. The only thing I can hope is that people in the public and people with the police services may have individual relationships with either parole board members or community members or people who have successfully completed parole, so that they can make judgements based on their own personal relationship with somebody or something rather than going along with the popular theory that it doesn't work, ever, under any circumstances.

**Mr Cleary:** Do you have any other ideas how you as a member could turn that around, to bring the credibility back to the board?

**Ms Vsetula:** I would encourage public speaking within the community. Working within Correctional Services over a number of years, I've fostered that as much as possible, because that is a very misunderstood ministry. I think that would be very positive. I think we could probably let somebody know about our percentages of success. If it's couched properly, that might be considered newsworthy.

**Mr Cleary:** When you mention speaking in the community, does that mean you as a board member?

**Ms Vsetula:** I would say myself as a board member, part-time board members and offenders who have successfully completed parole and who have seen it as an integral part of their re-entry into the community.

**Mr Bradley:** My question would be, first of all, when you're sitting in judgement as a member of a parole board, how do you overcome the problem of a good performance? In other words, and you've had some considerable experience so you know what I'm talking about, there are some people who put on a good show and get themselves out, and others who are

inarticulate and do not have the ability to present themselves in such a way as to favourably impress members of a parole board. How do we overcome that problem of the silver-tongued people getting out and the less silver-tongued people not?

1150

**Ms Vsetula:** No, I find the silver-tongued people have a harder time getting out. They're the ones I pay close attention to. First of all, we have a lot of information longitudinally from the time of the offence to the time of their incarceration and around the time of the parole plan, so we have a number of pieces of information that reflect people's view of this person and their strengths and weaknesses and their ability for success.

I would say for myself, with my clinical background and training, I would do it all the time when I was making a decision as to whether or not someone was going to be in therapy or not or whether they deserve some attention for a temporary absence pass; it's something you kind of get used to over a period of time. Gut feeling tends to carry a lot of weight sometimes.

**Mr Bradley:** So your experience, quite obviously, is going to be helpful to you in that regard.

**Ms Vsetula:** I think so.

**Mr Bradley:** Should the availability of adequate services within the community be a requirement before someone is released into the community? Even though you may have someone who is a good prospect to be released from prison, do you believe that person should still be released even if there are not adequate services to deal with that person in that transition period of parole?

**Ms Vsetula:** Each individual case is based on what that person's needs are, and those needs are always addressed within their parole plan. It's usually concrete. If they've decided they're going to go to an alcohol/drug treatment program, then there's one established and sometimes there has been a preassessment such that there is a date of entry. We sometimes have plans that are less concrete. However, it's a part of the parole disposition that this take place in conjunction with the time spent with their parole officer. If this person was very needy and was wanting to go to an area where those needs are not being met, it wouldn't make a lot of sense, I don't think, to put them in a position where you're making these expectations of this person but you're not giving them the tools to achieve those expectations.

**Mr Bradley:** You have a difficult chore, I needn't tell you, in determining who should be out and who shouldn't be in terms of the public perceptions. My read as a political representative of the public perception is that they think there are far too many people who are getting out on parole or on day passes or having favour-

able treatment by the system, yet a person who has been involved with the system, such as you, would recognize that if there's not a period of transition—that is, a supervised period of transition—what in fact happens is when the person finally hits the streets, the chances of that person coming back are much greater. So I understand that dilemma.

How are you going to wrestle with the problem, however, the public perception that there are simply too many crooks on the streets, and that reinforced by police officers who will confirm that for the public's edification?

**Ms Vsetula:** I think the earlier statement that you made is one based on certainly some knowledge and education, and I don't know that that's widely known by people. I don't know that that philosophy of, "Look, they're going to get out anyway, so let's give them some supports," is known by a lot of people. I don't know that we're putting that as much to the fore for people to wrestle with. As I stated earlier to the other gentleman's question, I think we need to be aggressive in our public relations and let people know our successes and the kinds of things that we're doing to ensure that things go well. We're dealing with fallible people, so there's going to be a mistake now and again, but they need to know that the percentages are very low.

**Mr Bradley:** Have you observed on the other side of the desk, if I can put it that way—this is a very hard question. You may say, "I don't want to answer it." That's fine; whatever you want to answer is fine. Have you observed that over the years in your experience, the appointment of political hacks to parole boards has been detrimental to the system?

**Ms Vsetula:** I have not known that many people who have been in full-time positions which would have—I guess the people I have known who have been appointed, most of them are community members. I would not know very much about their background in terms of why they've been appointed or how they got there. I just know they're there and I've worked with them. So I really cannot speak from a lot of experience, myself.

**Mr Bradley:** That's as good an answer as I could think of. Mr McLean is eager.

**Mr McLean:** I have a few questions. I'd like to start off with the Maplehurst complex. How many residents are there? What is the facility for? I haven't heard it put on the record today. Is it young offenders? Is it two years less a day? What is the facility and how many people are there?

**Ms Vsetula:** Maplehurst complex is a combination of a maximum-security detention centre—

**Mr Bradley:** The Milton Hilton.

**Ms Vsetula:** Yes, the Milton Hilton, a maximum-security detention centre which holds, I believe, 265

beds of those people who are in the court process. Most of them have not been convicted. A very few of them would have been convicted to short-term sentences and they would serve those within the institution.

**Mr McLean:** Why is it classified as maximum?

**Ms Vsetula:** Yes, it is; it's maximum security. That has only been around for about two and a half years. Prior to that, since 1975, Maplehurst Correctional Centre was a low-to-medium-security provincial facility for those offenders who have been convicted to serve sentences of under two years less a day.

**Mr McLean:** You work for Correctional Services?

**Ms Vsetula:** You bet.

**Mr McLean:** How many years?

**Ms Vsetula:** For Correctional Services? Let's see. In 1984 I believe I started with Guelph Correctional Centre and then worked with Maplehurst—

**Mr McLean:** From 1989 to the present you've been the social programs director?

**Ms Vsetula:** Yes.

**Mr McLean:** You had indicated earlier on that you hadn't worked with the Board of Parole yet. Have you not had any involvement with that board?

**Ms Vsetula:** I have in terms of preparing clinical assessments for the board, yes, but I have not worked as a member of the board.

**Mr McLean:** You had talked about helping the people get back on their feet, doing some rehabilitation. Isn't that part of your duties, to help rehabilitate people?

**Ms Vsetula:** Yes.

**Mr McLean:** But it did not appear to be very successful. Is that wrong, in my estimation?

**Ms Vsetula:** I'm not sure I understand.

**Mr McLean:** For rehabilitating people to put them back out into the community, what programs are there in place to rehabilitate?

**Ms Vsetula:** Within the institution there are a number of programs. We have a very large school, certainly within Maplehurst, and all institutions actually have school programs available. There are clinicians, social workers, psychologists, psychiatrists within every institution, so there is a great deal of work being done. We have volunteers that we use: We rely heavily on volunteers to come in and do groups with inmates. There are a wide variety of rehabilitation programs within the institutions.

**Mr McLean:** So you think, then, the program is successful?

**Ms Vsetula:** Success is an individual thing, based on the offender's ability to integrate the information that they receive in these programs. So the programs exist, yes, and we try as much as possible to meet the needs of the offender, but it's all a matter of timing.



**Mr McLean:** Talking to some of the guards who work in the system, they don't feel that there's any assessment or any rehabilitation being done in most cases. They're just in. They're short of staff. They're not being rehabilitated at all.

**Ms Vsetula:** Some will say that and some will say that there is some evidence of change going on, so it depends on who you talk to about it.

**Mr McLean:** The public is very concerned about it and I think they kind of agree with the guards. They don't feel that there is a lot of rehabilitation and some of the people who have come out have said that there was nothing done with them.

**Ms Vsetula:** "Done with them" or "done to them" is something that really does not produce successful change. Change is dependent on an offender's attitude and ability to incorporate those programs that are available to them. You can offer all sorts of programs, and if they're not ready to take them, if they're not ready to do something about them, no, they're not going to change. It depends on the individual's ability to absorb at that point in time. But there are large numbers of inmates who never return to the system. You don't hear about those very often.

1200

**Mr McLean:** According to your résumé, you were in private practice from 1983 to 1990 doing individual family therapy. When did you do that: on weekends?

**Ms Vsetula:** Well, I was home for a number of years with small children and I did a lot of court-ordered assessments for custody and access matters, and once I went back into working, yes, I would do some court-ordered assessments on the weekends. I would have one or two going at any point in time.

**Mr McLean:** But your résumé said from February 1989 to the present you were the social programs administrator.

**Ms Vsetula:** Yes. While I was working I would continue very, very small—

**Mr McLean:** Did you have a few years off in that time?

**Ms Vsetula:** Yes, I did. I was home with children for a number of years.

**Mr McLean:** Oh, okay. This wasn't in here.

The other question I have is with regard to the normal days. It's six to eight days a month that you will be spending on the parole board. Are you going to take time off work to do that, or how are you going to manage to do this?

**Ms Vsetula:** My position is that of a full-time member, so I will be there for 36 or 40 hours a week or whatever the week is. I won't be a part-time member. My intention is to be a full-time member of the board.

**Mr McLean:** On the parole board?

**Ms Vsetula:** Yes.

**Mr McLean:** So are you going to be paid then by the Correctional Services? Are you going to get per diem on the parole board as the others will?

**Ms Vsetula:** I believe that I will receive a yearly salary. I believe a per diem happens with part-time members. I will be on a yearly salary and I will be taking a leave of absence from my current position.

**Mr McLean:** Oh, okay. I thought you were still going to be working as program—

**Ms Vsetula:** No, I'm taking a leave of absence.

**Mr McLean:** Okay. So you're going to be a full-time board member?

**Ms Vsetula:** Yes.

**Mr McLean:** What does a full-time board member make?

**Ms Vsetula:** Fifty-five thousand dollars a year.

**Mr McLean:** Hey, that's just about—

**Mrs Haslam:** Gee, we should all apply.

**Mr McLean:** There are a few members here who, after the next election, would love to have that position, I'm sure. No further questions. I wish you good luck.

**The Chair:** Thank you, Ms Vsetula, for appearing before the committee this morning.

EDWARD J. WAITZER

Review of intended appointment, selected by the third party: Edward J. Waitzer, intended appointee as member and chair, Ontario Securities Commission.

**The Chair:** Welcome, Mr Waitzer. You may make opening comments or we may just start.

**Mr Edward J. Waitzer:** Why don't you start.

**Mr McLean:** I read somewhere that "The other major part of the commission is an administrative agency comprising more than 230 lawyers, accountants, investigators, managers and support staff," a pretty large industry.

**Mr Waitzer:** Everything is relative. It's about the same size as some law firms. It's always scary to get that many lawyers together in one place, isn't it?

**Mr McLean:** It's amazing. We did some hearings with regard to the Ontario Securities Commission a few years back and I happened to be on the committee when we were dealing with that. It's amazing, the amount of turnover of lawyers who come in, go back to their law firms, or come in out of law school, get a job with the commission and then go to a law firm. What's the reason for that? Is it experience?

**Mr Waitzer:** There are a couple of reasons. One is that there's a tremendous disparity between pay scales at the commission and in private practice. I think over time the practice has evolved, which I'm not sure is that bad, that the Ontario Securities Commission is a good training ground for lawyers and accountants, because

you really sit in the centre of the capital markets when you're at the commission, so most good securities practitioners have spent some time during their career up at the commission. In part it's public service, in part it's good training for them.

**Mr McLean:** I've always had a concern with regard to insider trading. It's my understanding that any one of these directors can trade in stocks and mutual funds. Is that true?

**Mr Waitzer:** Directors at the securities commission?

**Mr McLean:** Yes.

**Mr Waitzer:** Don't hold me to precise details. There is a policy which I'm not yet fully familiar with, but I'm sure I will be very soon, relating to senior staff at the commission which restricts their ability to trade and requires full disclosure of all their trading to more senior staff, possibly even myself, at the commission, so there is some control mechanism in addition to the statutory controls that apply to anybody with respect to insider trading.

**Mr McLean:** Do you feel that people who work inside, as they do, should be able to trade in the market?

**Mr Waitzer:** I'd be hesitant to put an absolute restriction. I think the requirement that they make full disclosure and comply with a policy statement probably reinforces for staff the significance of their position. I think most people at the commission are aware of the sensitivity of the work that they do. Having said that, when I worked at the stock exchange, one of the things I wasn't allowed to do was trade in securities, as will be the case now. It was probably one of the more fortunate implications of my job. I probably did far better with someone else trading securities on my behalf than trading myself.

**Mr McLean:** Were you working for a law firm when you were trading stock on the stock market?

**Mr Waitzer:** No. I have traded stock in the stock market, but I also spent some time at the Toronto Stock Exchange as a regulator when I didn't trade stocks.

**Mr McLean:** "The OSC chair should seek the power to prohibit an undesirable person from becoming a director of a public company and must seek to provide better protection for shareholders." What is your opinion with regard to the power to prohibit an undesirable person from becoming a director of a public company that wants to trade on the stock market? Should somebody be looking into that, a person you would feel to be undesirable? How would you act on that type of thing?

**Mr Waitzer:** The power is rarely exercised, and as you probably know, there are appeal provisions from the exercise of that power. It's one of many powers that are built into the Securities Act to ensure that the commission and its staff have the power to not only ensure integrity in the marketplace but ensure public confi-

dence of that integrity. It's important that there be a range of remedial powers available to the commission. As I say, that power is rarely exercised, but I can think of occasions where the director of the commission or the chair of the commission has exercised that power as a way of preventing someone from having immediate access to public securities markets.

**Mr McLean:** The previous chair indicated that the delay in the OSC enforcement powers with regard to amending the regulations will be stalled for about 30 months and suggested this delay is an important reason for a large number of settlements struck recently with people facing OSC allegations. What are your comments on that?

**Mr Waitzer:** The fact that the commission has had gaps in its remedial arsenal I think has contributed, I agree with the past chair, to the incentives to settle cases because the commission, moving forward into an enforcement mode, knows that it isn't fully armed. I'm not sure where the past chair comes up with the 30-month delay. Certainly, I think getting that legislation or a good portion of that legislation forward is an important priority for the commission in terms of its ability to function effectively.

**Mr McLean:** It's been indicated that you're a proponent of shareholder rights and disclosures. I sometimes wonder, with regard to some of the ads that you see in the paper, about some of the higher interest rates being offered by companies. I forget the one that we had dealt with in committee here a few years ago. Was it Re-Mor trust?

**Mr Bradley:** Re-Mor and Astra Trust.

**Mr McLean:** And Astra; I was on those hearings when we were dealing with them, and I can tell you that a lot of older people thought that was a great investment. What are your views with regard to prohibiting that type of thing from taking place?

**Mr Waitzer:** I'd like to step backwards. Let me try to answer the question. I'm not sure I understand precisely the question. Clearly, self-regulation is the most effective kind of regulation in a financial marketplace. By self-regulation I mean disclosure, the industry policing itself, disclosure in the form which is really consumer protection.

It's also clear that self-regulation isn't enough. For one thing, the industry always has competing objectives. On the one hand, they want to keep out the bad apples; on the other hand, the industry is looking to promote itself vis-à-vis other financial services providers and others. So there's this tension between the promotional aspect and the regulatory aspect. There has to be some oversight. In terms of how you deal with financial institutions that fail, again, you have to look at the financial institution. I think what you're talking about now is a deposit-taking institution. The securities



commission doesn't regulate trust companies or other deposit-taking institutions per se. If you'd like me to talk about my views on deposit insurance or other aspects of regulating deposit-taking institutions, I'd be happy to do that. It's not really the bailiwick of the securities commission.

1210

**Mr McLean:** No, I'm not interested in that, because my time is short and I only have a couple of more questions. I wanted to ask you about the executive salary compensation, your views on disclosure of executive compensation and the policy direction that you would recommend to the government with regard to that.

**Mr Waitzer:** I've written extensively in the past on it. I favour disclosure. As I said before, I think disclosure is the best means of self-regulation. It forces a level of accountability. People don't do things they're going to be embarrassed about if there is disclosure.

Having said that, my understanding is that the current commission has made certain recommendations which are under review by the government right now, and I'm not sure it's appropriate for me to be second-guessing its judgement at this time.

**Mr McLean:** What would your views be on how Ontario should approach financial disclosure by dealers? How should they go about doing that?

**Mr Waitzer:** Right now, there's a fair level of financial disclosure to the commission. One of the big projects that the commission and other financial regulators have been looking at, and I suspect will continue to look at for some time to come, because the nature of the market is evolving very rapidly, is how you measure capital adequacy of a financial institution. I think that's an important issue.

**Mr McLean:** My final question is just a short one. It has to do with regard to the OSC's approach to insider trading issues. Are they sufficient?

**Mr Waitzer:** Historically, the commission has probably not been that effective at enforcing insider trading. In the last couple of years, they have brought a couple of significant cases forward, which have focused people's attention on the fact that there are insider trading rules and they are enforceable. I think the legislation that the commission has put forward will assist the commission in that effort.

**Mr McLean:** Thank you very much. Good luck.

**Mr Marchese:** Welcome, Mr Waitzer. I don't think Mr McLean asked the question why you want this job. That's my first question.

**Mr Waitzer:** A complicated question; let me give you a couple of answers. The simplest answer is that when you've enjoyed the benefits of a system for a long time, it's very hard to say no when you're given an opportunity to put something back into the system.

I've been involved in the financial services sector for a long time. I started out as a regulator with the stock exchange. I spent several years at the stock exchange. I enjoy policy work. I think that capital markets are a key sector of the economy and play a very significant role in this province's welfare, and the securities commission has a large role to play in how efficient those markets are. It's very hard to turn down a chance to try to shape policy and be of public service in this context. How's that for a try?

**Mr Marchese:** That's good. My understanding is that the federal government is developing a parallel system of regulation, which suggests to me, first of all, it is already doing things that may be overlapping with what we're doing provincially. If they are not doing it at the moment, they will, and so that overlap will create some problems, presumably, for us and them as a government, as it does in so many other areas of public policy matters.

Do you have an understanding of what some of those overlaps are at the moment, and if presumably they want to regulate as well, what kinds of problems will we face and how would we approach this issue as a province?

**Mr Waitzer:** I'll be a little bit overly simplistic here. There have always been overlaps, and the financial services sector, as I say, is one of the most dynamic areas. It changes quickly. The most dramatic change in recent years has been the decision to allow banks and other federally regulated financial institutions into the securities business. As you know, banks have always been the dominant financial institution in Canada, so once banks are allowed to get into the securities business, there is of necessity an overlap because the federal government has exclusive jurisdiction over the regulation of banks, and banks now dominate, to some extent, the domestic securities industry. They each went out and either acquired or established a securities dealer subsidiary, and they have the lion's share, although not an exclusive share, over that industry. There's, of necessity, an overlap.

There's also an overlap, of course, between the various provinces, because while we have this fiction that securities regulation is provincially regulated—and of course Ontario is the dominant capital market for Canada; there are other capital markets and each province continues to have its own securities commission—when you say that there's an overlap now, the federal government does not have a lot of capacity. They don't have very many resources dedicated to securities regulation. They don't have the expertise or the experience. One of the unique resources of Ontario is that it has the premier securities commission, and it's recognized as such both within Canada and internationally, so that any move to harmonize securities regulation to better integrate the regulation of the



financial services sector, which is something that I think is essential and will happen during my term, starts from the resources that are currently available. I think Ontario will play a key role just because Ontario has the expertise, the experience, the reputation.

**Mr Marchese:** Do you know, I was anticipating jurisdictional conflicts on this and confusion within this sector, so my thought is, unless we find a way to harmonize exactly this regulatory problem, it will be difficult to deal with it.

**Mr Waitzer:** It's a very competitive business, financial services providers. They're big, but there's also a lot at stake. There are also political considerations involved. Yes, there will be conflicts. Having said that, I think everyone wants to see a more sensible and more efficient system than we currently enjoy.

**Mr Marchese:** I'd like your opinion on what kind of independence you think the OSC should have vis-à-vis the government. Presumably there's always conflict, because when agencies perceive themselves to have an arm's-length relationship, it sometimes suggests to them that they can do what they want. That's not always the case in terms of having paramount authority to do what one wants, but how do you see the relationship between the OSC and the government?

**Ms Waitzer:** There are really two different aspects to the OSC. On the one hand, it's a statutory tribunal. It sits and hears cases—for instance, insider trading cases or takeover cases—and, acting in that capacity, it is essential, and the statute was designed so as to ensure, that the commission act independently. It's really acting in a quasi-judicial capacity.

The other side of the commission is the side that is almost like a utility. It's there to make sure that the capital markets work well. It processes prospectuses and it sets policy. In that capacity, I don't think anyone would argue for independence. Clearly, the commission is accountable to the government through the Minister of Finance. Indeed, in today's environment there has to be a close working relationship because so many of the issues that we're talking about—for example, better integration of federal and provincial securities regulation or better integration internationally—are of necessity issues that require input from the government because they are only susceptible to political or legislative solutions. I think there has to be a very close working relationship between the commission and the government on that side.

**Mr Marchese:** Fine; it's a good answer for me.

With respect to revenues, I forget how much we raise, but do you have a view about the ability of OSC to raise further funds for itself, for the government, obviously? If so, what ideas do you have about what more could be generated through the OSC.

**Mr Bradley:** Did Floyd tell you to say this?

**Mr Waitzer:** I'm treading on sensitive ground here, so if I get into trouble, I'm sure I'll be grabbed from behind.

**Mr Marchese:** I don't think so.

**Interjection:** You're on your own.

**Mr Waitzer:** I'm not an expert on this. I'll tell you, in basic terms, that I think that the commission right now is underfunded. It has had a history, year after year, of significantly exceeding whatever allocated budget it's had available to it. I think the commission has to be properly funded. There are problems with being chronically underfunded. It's led to problems in terms of recruiting people. It's led to problems in terms of getting its job done well. When you recall that this year, for instance, the commission is generating about 200% in terms of revenues of its budget, that money comes from the financial services sector, users of the system who expect the commission to do a job. At a certain point, the government loses credibility and the commission loses credibility if it can't do its job properly, because you're really overcharging for services.

Not only that, but most of the sophisticated users of Ontario's capital markets have choices. Because of technology, there are no longer any boundaries. Anybody who feels that the Ontario market is not an efficient market can go to New York, can go to London, can go to Montreal. The commission has to function efficiently.

1220

Now, whether that requires more money, whether there are productivity gains that can be achieved, I think to the extent that the commission functions well, its users aren't going to have a big problem paying fees, and even paying more fees than the commission requires, because in the big scheme of things the fees that are paid are relatively minor to the significance of what the capital markets do for the economy and for the users.

**Mrs Haslam:** I'll get all my questions out; it's easier then for you to answer. Do you think that the public has lost confidence in the OSC? Is this the key issue or problem in the securities industry? If not, what is the key issue or the problem that the OSC will have to deal with during your term?

**Mr Waitzer:** Public confidence in the commission and in the securities markets isn't the key issue; it's sort of the eternal issue. It is the precondition of everything. If the public lacks confidence in the integrity of the markets and in the effectiveness of the securities commission, you lose your market very quickly, because, as I said before, there are other choices. That's a prerequisite in that you sort of assume that in defining what your priorities are in terms of—if we can assume that for a second—key issues.



There is always a range of policy issues relating to how to make the markets function more effectively, more fairly. In today's environment I think the questions that were just raised about better integration of financial services regulation intraprovincially, as between the various agencies within the province, and interprovincially, between the provinces and the federal government, and internationally are all key issues. The funding issue I think is a key issue in terms of building up the capacity and morale and effectiveness of the commission. There's a long list of key issues.

**The Chair:** Mr Waitzer, we're out of time. Thank you for appearing before the committee this morning.

**Mr Waitzer:** It was a pleasure.

**The Chair:** I'm sorry; this is twice I've done this this morning. The Liberals have not had their turn. I wondered why we had so much time on the clock.

**Mr Bradley:** We'll try to keep it relatively short, because the witness should know that the legislative research service provides background for the members and some interesting questions to be asked.

**Mr Waitzer:** They haven't done that for me.

**Mr Bradley:** I noticed that all of the questions that have been suggested by the legislative research service have been dealt with. Therefore, it leaves the members entirely on their own to ask questions, which is always dangerous, particularly for somebody whose greatest risk is to invest in a Canada savings bond each year.

But I was very interested in one answer you had, because the present administration, when in opposition—the New Democratic Party, as used to be said—was very interested in the disclosure of executive compensation. I would've thought that, the third year into the mandate of the government, almost the completion of the third year, that would have been implemented. You suggested that you are in favour of the disclosure of executive compensation. Are you in favour, however, of the same provisions which exist in the United States, which I understand are more radical than those which have been proposed in Ontario?

**Mr Waitzer:** I hesitate to venture into this area, just because I know it's under consideration by the government. The commission has made recommendations. Let me give you a longer-term answer, which is, as I suggested earlier, that markets are becoming increasingly integrated. Canadian issuers are raising money in the United States all the time. The borders don't matter anymore. I think we will come to a common standard. I hope and I think it's the case in securities regulation that we'll move to the highest sensible standard as opposed to a kind of a race to the lowest possible standard, because it just doesn't make sense. Everybody has too much of a stake in making sure that the system works well. I think my answer would be that over time, I suspect, we'll move more towards US-style compensa-

tion disclosure and I think there's some logic to that.

**Mr Bradley:** One of the arguments against it has always been that somehow someone is going to kidnap the executive when we find out that she is making \$750,000 a year or, more likely, \$4.7 million a year, that there's going to be an immediate attempt to kidnap that person and hold the person for ransom.

How much validity do you place in that argument?

**Mr Waitzer:** I think empirical evidence has tended to erode the effectiveness of that argument over time. There are some flaws. I don't want to leave you with the impression that I think the US model is ideal. For instance, I think one could argue as to whether some of the disclosure requirements in the US model are cost-effective. There's a whole new cottage industry among accountants right now figuring out how to value stock options. It's a very difficult problem, the question of whether the value of that disclosure to individual shareholders is worth all the money that individual shareholders collectively are paying to have that work done. But I don't get too concerned about kidnappings.

**Mr Bradley:** My final question deals with the government wage restraint initiatives and how they will affect the OSC's ability to attract and keep good employees who have expertise in certain areas. Is the attraction of having experience with the government and having that on one's résumé, and indeed establishing connections, if that's of any use in the securities commission, still sufficient to attract people, even in light of the fact that the government has placed wage restraints and compensation restraints on those who would be employed by the commission?

**Mr Waitzer:** I'm not going to give you an absolute answer because I don't think there is one. Let's step back. The commission—and I say this as someone who's dealt with a lot of government agencies in private practice and in various policy roles—really is a unique agency. It's not that big. Mr McLean talked about how many lawyers, but, you know, 230 people is not a very large agency. It's unique in that there is a sense of purpose and commitment and expertise at the commission that I think you would be hard pressed to find at most other agencies. I'm not saying that it's the best agency around, but there really is a culture there. To some extent, the people who work there, including the chairman, make sacrifices in terms of compensation for the opportunity to be part of that culture and to shape policy. To some extent, they work there because it gives them a chance—

**Mr Bradley:** Something like going into politics.

**Mr Waitzer:** Yes, not at all dissimilar in certain circumstances.

**Mrs Haslam:** You've taken a pay cut in that job?

**Mr Waitzer:** Yes, a very significant pay cut.

To some extent, they work there because it's good



experience and it provides them entrées back into the private sector. There are non-monetary incentives for being part of the commission.

Having said that, as I said, the commission has got this chronic funding issue. The social contract and current wage restraints certainly compound that and it's a factor in terms of morale that's going to have to be dealt with. I don't think it's the end of the world, but it has certainly had a significant impact on morale at the commission.

**Mr Bradley:** The argument was made, successfully in one case, that, for instance, in something peripherally similar, the government had to pay crowns much more money because the crooks—sorry, the accused—were getting all the good lawyers who made big money and the other lawyers who weren't so good went into the public service where the money was peanuts. That's why I asked that question, whether there was a danger that the people on the other side of the ledger would have the better experts on their side than those in government. That's why I asked. Your answer is interesting in that light, because what the government did was simply pay the crowns more money to attract them.

**Mr Waitzer:** You see, that created another problem for the commission, because what it meant is that the lawyers at the securities commission, because of that action, are getting paid more than the accountants, so there are now sort of class disparities within the commission that create other problems. But I think the answer is that the commission and its staff are very highly regarded by practitioners. The commission also regularly retains outside practitioners on certain matters. So I wouldn't worry about it from the point of view of the commission being able to do its job well. I do worry about it as a managerial problem, in terms of maintaining morale.

**The Chair:** Thank you again, Mr Waitzer. Could we have a motion please?

**Mr Marchese:** I move concurrence, Madam Chair, with all of the intended appointments.

**The Chair:** Right, the appointments this morning of Mr Ali Omar, Mr David Hobbs, Ms Claudia Vsetula and Mr Edward Waitzer. All in favour of the motion to approve those appointments? Opposed, if any? The motion is carried.

May I just remind the committee that we are starting at 1:30 this afternoon in closed session.

*The committee recessed from 1231 to 1330.*

*The committee resumed in closed session from 1330 to 1359.*

#### SUBCOMMITTEE REPORT

**The Chair:** I call this meeting to order, a meeting of the Legislative Assembly standing committee on government agencies, to deal with the agency review of the Workers' Compensation Board. Just prior to starting

with the opening statements of the board representatives, someone is going to move the subcommittee report.

**Mrs Haslam:** I'd like to move the subcommittee report, with these amendments and these details:

We're meeting from 10 to 12 and from 2 to 5 from Monday to Thursday.

We've set a framework for ourselves: Monday we'll have an overview; Tuesday in the morning our framework will be on fraud, and in the afternoon we'll be looking at the action plan the WCB has been place; on Wednesday, in the morning we'll be looking at finances in general and in the afternoon there's a possibility of a tour of the WCB building, and we will be discussing that and making a decision tomorrow; on Thursday am we'll be looking at the building, and the afternoon looking at the future and what's going to be discussed for that. I so move with those amendments.

**The Chair:** Any discussion? All in favour? Opposed, if any? The motion is carried.

#### WORKERS' COMPENSATION BOARD

**The Chair:** Mr King, are you the first spokesperson this afternoon?

**Mr Brian King:** Mr Di Santo has been waylaid by some people in the hallway, but he's on his way in and he will be making the first statement. Here he is now.

**The Chair:** Good afternoon, Mr Di Santo and Mr King, and welcome to the committee. If you would like to start your presentation, we would appreciate it.

**Mr Odoardo Di Santo:** Thank you, Madam Chair and members of the committee. On behalf of the Workers' Compensation Board, thank you for your invitation and the opportunity to participate in these hearings. With me today are Brian King, vice-chair of administration of the board, and Dennis Schweitzer, who is vice-chairman of the board representing the workers. The Honourable Robert Stanbury cannot be present today, but he is the vice-chairman representing employers; he will attempt to participate in the next three days. Also present are several senior members of our administration who are here to help us answer your questions and, more importantly, learn from these proceedings how we can better fulfil our mission.

As the first person to speak for the Workers' Compensation Board at these proceedings, it is my responsibility to establish the outlines of our perspective, our point of view, on the subjects this committee wishes to discuss. In order to help you put yourselves in our shoes for a little while, I have to explain how we at the Workers' Compensation Board see the province and our unique role in it. I can best do this by sketching out for you the daily reality with which we work.

During just the four days this committee will meet to discuss the board, over 5,000 workers in Ontario will be injured on the job. This distressing statistic is actually



understated, because we know that, for a variety of reasons, not all workplace injuries are reported to the board, especially those many industrial diseases that slowly invade and usually shorten many workers' lives.

About one in 10 of those workers who claim for compensation will live with their injuries for the rest of their lives. Many of these permanent disabilities are visible, but most of them are not. Most of these workers are eventually able to return to some kind of productive employment, if they are lucky to get their old job, but many cannot, and of those who cannot return to work, most slide quickly into poverty and a quiet daily despair.

The cumulative effect of more than 400,000 workplace injuries per year is resulted in a very large, if largely invisible, group of permanently disabled people in our province. A growing number of them are women, many of them young mothers who are new to this country and who worked in repetitive jobs with their hands, so hard and so fast and so uncomplainingly that they can no longer pick up their own children.

Another statistic, which we don't like to talk about, but we must, is that during these four days it is likely that two, three, four or more workers will be killed outright on the job, somewhere in this province. It could be happening right now. Let us pray it isn't. But what is most certainly happening right now is that some workers, too many workers in this province, are being exposed to some hazardous substance, probably a carcinogen that will significantly shorten their lives.

I'm telling you about this, the grim reality that is our task to face and deal with every day at the Workers' Compensation Board, so you can better understand our occasional and forgivable feeling that there has been a lot of attention and a lot of debate about the cost of workers' compensation in this province but little, if any, attention given to the pain and long-term human suffering behind that cost.

Yes, we know we have to be as prudent and efficient as humanly possible and we are always striving to do that, as you will see, but please do not forget that we deal with and we try to help people in pain, people whose lives have been shattered by serious workplace accidents, people who have been productive, contributing working citizens all of their lives until they become permanently disabled. Sometimes, these people are the families of those who have been killed on the job.

What is an acceptable cost for providing these victims the kind of humane, compassionate, caring and timely service we would all wish for ourselves if we were in their shoes? This is a difficult and troubling public issue that will probably never be resolved to everyone's satisfaction, but we must keep trying.

I realize that it's statements like this, which I have been making for 25 years, that have caused people to

label me as pro-worker. It is a label I wear with pride, because the very existence of our workers' compensation system is based on compassion and justice for the injured worker, as Judge Meredith said at the outset when he set up this system.

I cannot imagine a chair of the Workers' Compensation Board who was not pro-worker. The law even requires us to give the benefit of the doubt to the worker in many difficult judgement calls and requires us to make significant efforts to help the worker with his or her rehabilitation and make those efforts quickly. The very nature of our work is pro-worker. How could it be otherwise?

But I totally reject the implicit assumption of some that being pro-worker means being anti-employer. That is not true of me or any of my colleagues at the board. We understand that Ontario's future prosperity will depend, as it always has, on thriving, competitive business and industry. We are as distressed as everyone else in this province about ravages of our prolonged economic recession and our diminished ability to generate jobs, and we worry about the effect of workers' compensation costs on the Ontario economy. We continuously seek efficiencies and innovation in our service.

1410

I must add that for the first time in the history of the Workers' Compensation Board, this administration is costing every new program, every new initiative that the board of directors undertakes, and we consult more than ever before with employers, who pay the costs of the system. In fact, I am confident in saying that since our administration began over two years ago, there has been an unprecedented level of formal and informal consultation with Ontario's employers on practically everything, from the design of the form they use to report an accident to the issue of compensation for the effects of workplace stressors.

Of course, we also consult with workers, principally through their well-organized representatives, and whenever possible we bring both groups together in the same room to seek common ground and the kind of enduring consensus that gives us at the board greater confidence in our work.

Obviously at some point decisions must be made; consultation cannot go on for ever. As legislators, you understand that. Our major policy decisions of course are made by our board of directors, which is also in effect our highest consultative body. This board, I want to remind you, Madam Chairman, and the committee and the media, is made up of four representatives of employers and four representatives of workers and is an active, informed and decisive group of concerned citizens who are in close touch with their respective constituencies. They are not as visible, perhaps, as myself or Brian King, but our compensation system is



profoundly influenced by their decisions, which are in the vast majority of cases arrived at by consensus.

By law, the daily work of the Workers' Compensation Board staff is making real-life decisions on the interpretation and administration of the Workers' Compensation Act. It would take an entire day just to recite the types of decisions we must make, from what are reasonable travelling costs to receive effective therapy, and that's a simple decision, to what are realistic occupational goals for a teenage store clerk who was gunned down while at work and left paralysed for life. Millions of decisions, large and small, are made by the board staff every day, every year.

Are all those decisions correct? That would be impossible. There are too many variables in every slightly complicated workers' compensation claim to guarantee that our decisions in the case will always be correct in both law and simple human justice.

With the number of decisions we must make, even a tiny fraction of wrong decisions will accumulate in the experience of those who watch us closely, who are also the ones with whom we most consult.

This has created something of a paradox for us. Our new openness, which we believe was long overdue, has focused attention on those mistakes we do make, even though they are, we know, far fewer than they have been in the past. Brian King will give you some rather startling figures on the error rate of the computerized workers' benefit system, errors which we have now corrected, and this is just one example of how we are actively seeking out our mistakes and submitting them to scrutiny by our clients so that we can get better and faster. The strategy is working. We are making better decisions, or at least that's what our clients are telling us, which makes it ironic from our perspective that all the attention is on our mistakes, or alleged mistakes, and not the permanent improvements that arise out of this open, continuous self-examination that is now the way we do business at Workers' Compensation Board.

Our intensive outreach to employers during the last two years has affected me personally very positively. As a way to better understand employer concerns, I have visited many workplaces in this province. I am pleased to report that it is now easy to find workplaces in which the employer's regard for the health and safety of the workforce and their commitment to vocational rehabilitation is truly outstanding and, to me, truly exciting. Moreover, I know that the places I have visited are only a small indication of what is happening out there all over the province: growing awareness, growing concern and more innovation in the areas of health, safety and rehabilitation in the workplace.

So I would ask our critics to continue to criticize us, constructively if possible, but please check the record before you label us as anti-employer. The facts simply

do not support such a charge.

What the facts do support is that we should all have a major and urgent concern about the future of workers' compensation in Ontario. To some degree, every province's workers' compensation board shares the same problems, but here in Ontario, because of severe shrinking in our assessment base, due both to the recession and the offshore movement of manufacturing, we are suffering more than others.

Every concerned person will have his or her opinion on what the Workers' Compensation Board should be doing to address this fundamental problem. But it is clear that there is no simple formula that will allow the board to rise above inexorable economic forces. Like everything else in nature, we too must adapt or die, and I think it is clear from human history that the most successful strategy for adapting to changing environments is cooperation. As a province, as a country, as a world, we must all cooperate more if we are to survive and prosper, and nowhere else does this apply more clearly than in issues related to workers' compensation.

That is why we have dedicated our administration to building the consensus on which cooperation can be based and building the cooperative structures through which further consensus is achieved. If the successes we have had have not been in the headlines, it's because consensus-building is by its nature a quiet, undramatic, incremental process that attracts no attention. And we have had successes, which you will hear about as we progress in our presentations.

When we came to the board in 1991, myself and Brian King, we appeared before the standing committee on resources development. The focus was on service delivery—or, rather, inadequate service delivery—by the board to its clients. At that time we admitted to serious service delivery problems and explained in some detail the unique combination of circumstances that led to the noticeable and in many cases measurable deterioration of client service that had been taking place during the last few years. These were not excuses but explanations, a litany of challenges we had to overcome if we were to arrest the deterioration and make noticeable and measurable improvements:

—Our telephone system, which was poorly planned and even more poorly implemented.

—Our state-of-the-art imaging system, which, for all its merits, actually slowed down decision-making.

—The high turnover of adjudication and rehabilitation staff, which meant a relatively inexperienced workforce during the most stressful time in the board's history.

—A blizzard of policy changes resulting from Bill 162.

—A payment system with an astonishing error rate.

—A decentralized decision review process that slowly issued lower-quality decisions, not because the staff



were lower quality but because it was poorly thought through and not supported.

—An employer reclassification program that seemed expensively out of control.

And these were just the major problem areas we discovered.

I confess that there were times during my first few months as chair that I privately marvelled at how our staff could actually keep the system running in the face of such adverse conditions.

1420

I ask you to reflect for a moment on the complexity of administering three different acts, depending on the date of the worker's accident. We have a pre-1985 act, we have Bill 101 and Bill 162, a tangle of legislation that consumes a lot of resources and expertise to administer.

But if we came to you now, more than two years later, and still cited those circumstances we found as reasons that we have not improved service delivery, you'd rightfully question our credibility and our ability as chief administrators of the Workers' Compensation Act and the board, because at this point in our administration they would be excuses, not explanations.

Fortunately, we have improved service delivery, both noticeably and measurably. Brian King will be talking more specifically about this when he addresses you. But unfortunately we still have a way to go before we are satisfied. We cannot improve 100% overnight, or even in two years, given the size of the board and especially given the fact that we are tremendously strained by sheer economics.

It would be irresponsible, or at least unrealistic, if we simply asked ourselves, "What is the best level of service delivery we can achieve?" and then set about doing that. The question we must answer is this: Given our resources, given the ability of the Ontario economy to support the system, what are the board's service delivery priorities and how do we most efficiently achieve them?

There are many more things we would like to do to improve services for both workers and employers, but, simply, we have to choose our priorities. For example, we think we could greatly reduce the stress that small and medium-sized employers experience over workers' compensation matters through an innovative training and information service for both workers and employers. I'm sure you'll agree that a lot of the board's service delivery problems stem from an inadequate understanding of how the system works and each client's rights and obligations. This lack of understanding is predictable. It's a complex system because it's a complex law which attempts to deal with complex human events and processes. A person operating a small or medium-sized business cannot be reasonably expected to learn in

advance how to deal with the Workers' Compensation Board until he or she actually has to do so. There is no lack of ideas on how we could bridge that gap between the law and how our clients understand it. It's only the economics that force us to make choices, as I said before, choosing priorities. At this time of prolonged economic crisis, of course those are factors that have a major impact on our operations.

Nevertheless, we have made several significant improvements in service delivery by delineating our priorities and acting on them to the best of our economic ability. In fact, though, our priorities have been delineated for us: first by the Legislature itself through the report of the standing committee in the spring of 1991, which called for, among other things, an operating review of the Workers' Compensation Board, which was accomplished; secondly, by the task force on service delivery and vocational rehabilitation, which I initiated in 1991 and which was a tremendously successful and unprecedented consultation with our clients all over the province; and thirdly, through an equally unprecedented internal consultation with all our staff, very ambitious in scope, very innovative and, once again, very successful.

Out of all these influences on just what our priorities must be, we have shaped an action plan centred principally on the five main themes of the task force recommendations. The plan will be pursued by 16 teams of staff from all levels of the board that will develop precisely targeted programs, explore innovative service delivery concepts and even hire staff through extensive consultation with a range of client groups.

If I may, not just in the interests of our time here today but also because it is the single most important compensation issue to me personally, I would like to specifically address just one area of concern being taken by the action plan, the area of vocational rehabilitation, returning injured workers to productive meaningful employment as soon as they are able.

To a permanently injured worker, the idea of compensation must include rehabilitation. Personally, I would be happier if our organization were called the compensation and rehabilitation board, to give public weight to what is surely one of our basic values as a society, the restoration of human potential and dignity after a setback.

Allow me to illustrate at this point with a brief story about one of our clients whose recent history embodies my goal which I set out when I assumed this office, to build an institution, a Workers' Compensation Board with a human face.

In November last year a 26-year-old father of two young children lost his right arm and leg in a railway accident. For weeks his life hung by a thread, but he did survive, although he has many times every day wished he hadn't. John had no desire to live for the next 50 or



60 years as a double amputee, a normal human being trapped in a mutilated body that made everyone around him uncomfortable.

In his own words, it wasn't until he came to the workers' compensation rehabilitation centre in January of this year that he began to see a glimmer of hope. By the end of that month he had a new arm; by March 1 a new leg. Then his work really began, learning to walk, eat and, most important of all, learning to focus on the future and draw on the deep and powerful human drive to recover and carry on despite great suffering and adversity.

His progress astounded his doctors. By April he was driving and he now swims, plays squash and can walk two kilometres without a break. He is learning to write with his left hand and is looking forward to the day that he can return to work. I would immensely wish he could be one of our workers counselling other injured workers.

John is a truly remarkable man, the kind of person we feel privileged to help, and if you talk with him you will hear about the personal, compassionate, professional and motivating help he has been getting from the staff at the rehabilitation centre: "I owe the staff here a lot," he told us. "They were there for me each step of the way. They took the time to get to know me and my interests. This is true from the janitor up. There were lots of days when I just couldn't pick myself up, but someone was always there to help me through it."

John's is, thankfully, an unusual story, but it is far from unique. It describes the board at its very best and we should not be shy in talking about our best. But there are many thousands of less dramatic but still tragic stories of permanent injury in Ontario every year, workers who need and deserve the best, most caring rehabilitation services we can provide. We are not doing enough for permanently disabled people in Ontario and, as a result, we are losing a staggering amount of human potential in destroying many good people's souls.

When I first arrived at the board I asked about the prevalence of modified work programs. I wanted to see how they were working and learn from those that were successes. I was extremely impressed with what I saw at workplaces in different parts of the provinces. At Inco, Falconbridge in Sudbury, UTDC in Thunder Bay, St Marys Paper in Sault Ste Marie, Bell Northern in Ottawa, Levi Strauss in Hamilton, Cuddy Food in London and Ford in Windsor.

1430

But as impressive as these programs were, they were only a handful of employers. The realization that modified work programs and the early return to work benefited absolutely everyone was not yet general. In fact, it still isn't but it soon will be. There are now 2,000 modified work programs that we know in Ontario, almost all of them of recent origin. This statistic un-

doubtedly accounts for a large part of our success in reducing the average time between accidents and return to work during the last two years.

Vocational rehabilitation is as good for employers as it is for injured workers. I think that statement is now beyond question. But let me take one step further. I am convinced that what is good for rehabilitation is good for Ontario. We at the Workers' Compensation Board are a major part of the social net, but for too long we have been isolated from others who work with the disabled. In a modest way, my office has tried to connect with them so that we can share our expertise and by speaking with one voice do much for employment equity for the disabled of Ontario.

I know that more and more people share not just my views on this, but my passion as well, as evidenced by the result of our task force and action plan. The Workers' Compensation Board has always been a leader in rehabilitation, as John's story attests, but there is still much to be done, in our view. I publicly pledge, as long as I am chair, to continuously promote and direct even greater measures to restore injured workers' self-esteem, earning potential and ability to contribute to their society.

I must add, Madam Chairman and members of the committee, that one of the problems we at the Workers' Compensation Board are experiencing is the fact that although we are making inroads with the modified works program, I want you to understand there is an incredible shift in the perception on the part of the employers of the injured workers. Until recently, injured workers were considered to be a liability to the employers for many reasons—because they were thought to be prone to recurrence, because they were non-productive—but the cases that I mentioned to you from Inco, where 10% of the workforce is made of injured workers or people with disabilities, to smaller companies like Levi Strauss, all prove that injured workers can become an asset for the employers and therefore can alleviate the Workers' Compensation Board of any credible burden, because the compensation expenses are a very large expenditure in our budget.

We need the cooperation of the other partners in society, from the legislators to the public employers to private employers. We cannot operate on our own, because you realize that until now, except for a provision of reemployment in Bill 162, the board has no power to reemploy or to employ injured workers. We can only plead with the employers; we can only try to convince them. But there is not legislation that allows us to place injured workers back, or other people with disabilities. Therefore, a change in legislation as well as in the public's perception is necessary, and I hope that you as legislators will promote exactly that.

I want to move now to another subject. There is one subject that rightfully troubles all of us that I want to



address in a very straightforward way. That's the issue of fraud at Workers' Compensation Board. At the outset, let me point out that, contrary to what some interested critics are saying, the sources of fraud or potential fraud at the Workers' Compensation Board are several. Frauds can be originated by employers, by workers, by suppliers and by Workers' Compensation Board employees. In the last two years, we have uncovered instances of fraud from all four sources and we have as a result learned better how to prevent, detect and discourage it.

I know I speak for all our staff when I say that every one of us at the board feels betrayed by every instance we discover of outright fraud, whether or not it is publicized by the media. We know this reflects on all of us. It makes our work more difficult and inevitably results in more stress for the vast majority of our clients who are scrupulously honest and cooperative. Injured workers in particular suffer because their claims can often be delayed by the screens we erect to discourage or detect unjustified claims. This is very unfortunate because, as a percentage of the claims we process—last year we processed 377,000 claims—a very small number could be legitimately called fraud.

**Mr McLean:** Point of privilege, Madam Chair: I wonder how much longer your presentation's going to be, sir. Any idea: 15 minutes or half an hour?

**The Chair:** It's been 35 minutes up to now. You have been 35 minutes, Mr Di Santo.

**Mr Di Santo:** I'll be probably 10 or 15 minutes, but I'm in the hands of the committee.

**Mr McLean:** That's fine. I was just curious.

**Mrs Witmer:** On the same point of order, Madam Chairperson: How long will Mr King then be?

**Mr King:** Again, I am at the pleasure of the committee. If you want me to speak for five minutes, I will. If you want me to speak for the rest of the afternoon, I'll be hard-pressed, but I probably will as well.

**Interjection:** More or less the same.

**Mrs Witmer:** More or less the same, 45 minutes? So it'll be about an hour and a half. By 3:30 we should be ready for questions, then? I guess I just wondered how much time we would have for questions.

**The Chair:** An hour and a half is a long opening statement, I think.

**Mr Di Santo:** Madam Chairman, we were not given any direction, but we thought since we are being here for five days, we should give you a most thorough exposition of our point of view, but as we said, we are in your hands.

**Mr Daniel Waters (Muskoka-Georgian Bay):** Personally, I don't see an hour and a half for these two gentlemen to make their presentation as being a long period of time. They're talking about a lot of issues that

are important to all of us and they have a lot of information stored in their heads. I'd be more than happy to have them impart that to give us the basis of what we're going to be discussing here over the next four days, so I would very much be supportive of this.

**The Chair:** Please continue, Mr Di Santo.

**Mr Di Santo:** This is very unfortunate because, as a percentage of the claims, as I said, a very small number could be legitimately called fraud. I think that a worker who deliberately fabricates a disability is as rare as an employer who deliberately understates a payroll or fails to report an accident. It happens and that's deplorable. We go looking for it hoping we won't find it, but we do.

We knew that when we greatly increased our efforts to detect attempts to defraud the Workers' Compensation Board from any source, there would be no good publicity as a result. The bearer of bad news is never thanked. But even though we were prepared for it, it is still painful to be the author of some of your own bad publicity.

1440

Nevertheless, our credibility as an institution and as an important part of Ontario's economy is at stake. We must not only do, we must be seen to be doing everything we can to reduce and eliminate all types of fraud, and we are. That's the good news. In fact, the Workers' Compensation Board has been recently a leader in recognizing and aggressively addressing institutional fraud. Think of the very recent public attention that has been given to fraudulent practices in health care and private insurance fields. I think it was significant news when our board of directors—employers and workers, I want to remind you again—unanimously adopted our administration's strategy to combat fraud, and Brian King will outline for you in more detail the measures we have taken towards this end.

The bad news, however, is that there are limits on what we can do—not hard-and-fast policy limits, but economic limits, statutory limits, operational limits. The price of eliminating all possible fraud would be higher than Ontario's employers would be willing to pay, and in the process we would be severely punishing the overwhelming majority of honest workers whose only crime was to get hurt on the job.

By analogy, think of our concern with traffic accidents. How many people are killed on our roads every year? Who among us does not personally know someone who was killed or severely injured in this way? Theoretically, we could easily eliminate virtually all traffic accidents by slowing traffic down to the speed of horse-drawn wagons and rigorously enforcing it with a police officer every kilometre or so, 24 hours a day. Yet despite the tragedy of auto accidents, there is no chance that this will happen. It would be too expensive and too impractical. We make compromises with our objective



of eliminating deaths on the road and settle instead for increasingly sophisticated methods of reducing them, while still retaining the convenience of rapid transportation.

And so it is with the Workers' Compensation Board. It is easy to conceive a foolproof compensation system that subjects every claimant to a process that reduces the chances of fraud to virtually zero. It would take quite a large number of people to do this, but we could. Similarly, we could install an enforcement official in every place of business to ensure that the payroll report was scrupulously accurate and every single accident was reported without delay. Or we could closely monitor every doctor involved with the claim, or follow every supplier around to ensure that we receive full value for every dollar we spend. We could devise a system of spying on our staff to ensure that they don't walk away with as much as a paperclip. We could, if we wanted to, do all of this, but it would be clearly unacceptable and totally outside of our main social and political values.

Most people are honest. Most people want to earn their living. Most people meet their obligations, and even though they may complain sometimes, they feel good about being responsible and contributing to their community. It would be Orwellian to fashion a system that assumed and behaved as if everyone who approached it did so with the intent to commit fraud. I would certainly not want to work for such an institution, let alone head it, but neither do I want to head an institution that is discredited because dishonesty is rewarded as a matter of course. For these reasons, I am as zealous as any one of you about exposing and penalizing fraud from any source. But I know that we must make compromises so that service delivery to those who deserve it does not suffer and create hardship for them, their families and their business. I hope that after hearing from Brian, you will agree with the initiatives to control fraud that we have taken and the compromises we have made between security and service.

There is one last thing I wish to say on this subject of fraud, especially to those who make it their business to personally expose instances of worker fraud that come to their attention or that they seek out. As I said before, that's only one source of potential fraud. There are hundreds of thousands of workers in Ontario who rely to one degree or another on income from the Workers' Compensation Board. Even the wildest estimate of fraud would assume that the vast majority of those workers are entitled to their benefits in every legal and moral sense.

Think about what such a relentless charge of fraud must do to those workers. Think of how you would feel to be constantly lumped in with the tiny minority of dishonest people, tarred with the brush that was meant for them. Think of how it must cheapen the tragedy of

permanent disability and then undeservedly diminish their self-image of what their family and friends may feel.

In my career I've met too many thousands of workers who have greatly suffered because of their work-related injuries and diseases and their subsequent reliance on compensation. It is an awful experience to feel constant, disabling physical pain and yet know that many people think that you are faking or exaggerating an injury just because you are on compensation. This is a grave injustice that we visit on people who are already victims.

And on their behalf, Madam Chairman, may I ask you, when you are talking about fraud in the future, to take pains to acknowledge that most workers are deserving of the help they get from the pioneering system that was set up for them by Mr Justice Meredith nearly 80 years ago.

In conclusion, I want to thank you for this opportunity to publicly address urgent public concerns. If what I've not covered is not to your minds adequately addressed by others from the board during these hearings, I give you my personal guarantee that you will receive every available piece of information which you require as soon as we can possibly provide it.

Ours is a complex institution, and we have problems but, as I said, it's a completely open one. We share with you a desire to make it work as intended, better than intended in fact, always guided by our most important social and economic values and always mindful of the motto that was coined by Mr Justice Meredith to describe our mission: justice and humanity speedily rendered.

**The Chair:** Would the committee like to proceed with Mr King's presentation or would you like to question Mr Di Santo?

**Mr Waters:** Move on with Mr King, please.

**The Chair:** Mr King, please proceed.

**Mr King:** Thank you, Madam Chair and members of the committee, and thank you, Odoardo. I will attempt to keep my remarks as concise as possible.

Let me begin by saying that my welcome to Ontario about two and a half years ago was before a standing committee of the Legislature on resources where the question of service delivery at the Ontario Workers' Compensation Board was the key issue or key criticism. I hope that my appearance before this committee doesn't augur my departure from Ontario.

There were four issues, I think, that were keyed in upon by the Workers' Compensation Board, flowing from the standing committee testimony, testimony which came from workers, from employers and from interested stakeholders in workers' compensation.

1450

The first is that we had to provide much better



service delivery to our clients. We simply were not providing them with the kind of service that they felt they had to have from what is basically a monopolistic system.

The second area that was keyed in on as being vitally important to our clients was the whole area of rehabilitation, of getting workers off benefits and back into the workplaces as productive members of society, productive not only to their workplace but to their families and to their communities.

A third area—although it wasn't covered in the same way at the standing committee, it was certainly one of the pillars of a properly managed system like workers' compensation—is the whole area of controls. The chair, Mr Di Santo, and I worked out early on that we must bring the workers' compensation system under control in Ontario if we are to have a respected and viable system.

Finally, it was apparent to us, if not to everyone else in Ontario, that the very financial viability of the workers' compensation system was being called into question with the ever-increasing rise in the unfunded liability of Ontario workers' compensation.

I wish to address you today on the service delivery issue, on the new economic reality in Ontario, which involves the need to manage in a much smarter way and with fewer resources, the need for the controls aspect to deal with the question of the unfunded liability. As well, I would like to say a few words, perhaps somewhat more personal and maybe supported by either the chair of the Workers' Compensation Board or the board members, about a possible future for the workers' compensation system. Let me begin with service delivery.

I remember most vividly the critique that came forward at the standing committee, followed by the critique contained in the task force committee on service delivery, that the workers' compensation system wasn't doing many things: It wasn't answering its telephones, it wasn't answering its mail, it wasn't dealing with its appeals on a timely basis, and it was not dealing with customers or clients in the way that the clients had the right to expect—that is, with professionalism and with empathy. It was based upon that critique and on that problem identification that we determined the service delivery agenda.

I will first state that what we didn't do is throw a bunch of money at a problem. I think that, from our experience, is seldom the answer to the problem, which is to throw more money after it; but rather, we attempted to identify ways to deal with the problem that were more creative, that were more based upon the utilization or the reassignment of existing resources. For instance, with respect to things like telephones and with respect to mail, we actually began to measure on a monthly basis our responsiveness in the area of tele-

phones and in the area of mail. Once we had a sense of what we were doing, we set clear standards of performance for the Ontario Workers' Compensation board, standards that we measured monthly in order to determine whether people could achieve and maintain those standards.

For instance, along with the appointment of a new vice-president of client services in July 1991 went a series of directions or standards that I and the chair expected client services to meet for our client public, including the turnaround time in responding to telephone calls, which has varied somewhat depending on client needs but which is now in the neighbourhood of 24 to 48 hours for us to return a telephone call; and the turnaround time for mail of 10 working days to respond to a letter from a client. Those were very real standards and specific standards that were set for our employees.

Additionally, in the area of things like the initial acceptance of a claim or the initial handling of an appeal within the system, we have set, and they're available to the members of this committee and to the public, our standards of performance, standards of performance which people may argue are not good enough but which we are measuring ourselves against and reporting monthly to our clients and to our stakeholders on.

A fourth area of service delivery is harder to measure and to quantify, and that is one of attitude towards your client group or attitude towards your customer. You can't measure how long it takes for someone to be professional and kind or whether he or she is professional at the other end of the telephone, but we are increasing our education to our employees in the whole area of customer service, client service, and explaining to them what we expect about responsiveness.

Those were the initial moves that were made; that is, define what we expect from our employees, measure against what we expect, and let people know how we're doing versus those measurements. In addition, there were many other things undertaken in the service delivery area.

One of the key critiques of the standing committee on resources development in the spring of 1991 had to do with the adjudicator assistant position; that is, some 230 or 240 people who were there to assist adjudicators in gathering the paper, in taking the phone calls and in responding to the injured workers and to employers. Injured workers and employers told us in no uncertain terms that they didn't want to deal with an assistant; they wanted to deal with a decision-maker. So steps were taken to eliminate 240 positions as adjudicator assistants and give those people training as adjudicators and as rehabilitation case workers so that the public of the Ontario WCB were able to deal with the actual decision-makers and not the assistants to the decision-makers.



We relied on training. Any manager will tell you that training is essential in order to move forward as a modern business in our economy today. Let me give you some idea of what training means at the Ontario Workers' Compensation Board.

For those who initially accept the claims, we provided in the first year over 1,600 working days of training to that group to allow them to understand better what the policies and procedures are, how they should deal with our clients, how they should respond to the telephone and to letters. We gave over 1,600 days of training to those who were responsible for the day-to-day administration or case management of claims. We gave almost 600 days of training to managers to let them know what their responsibilities were in the workers' compensation system. We gave over 160 days of training to telephone answering clerks so they could understand what was meant by a professional, empathetic approach to our public. And there were over 1,200 days of technical training given to those who have to advise on very technical matters.

There are statistics, which I won't quote right now, as to how that allowed us to respond in the area of service delivery, except to tell you that our report called *Monthly Monitor* is available. We track and report monthly on how we do against predetermined service delivery expectations at the board and are able to monitor it on a monthly basis as to whether we're providing the type of service we're promising.

Let me speak for a minute to what Odoardo mentioned is his most beloved part of the WCB, which is vocational rehabilitation. Anyone who has worked in the field of vocational rehabilitation knows beyond any doubt that the earlier you can get intervention, the better the worker is and the better the employer is in terms of the ultimate return to employment.

**1500**

I will give you a couple of examples of where we hope we are doing much better in vocational rehabilitation. The standing committee on resources cited the heavy case loads of vocational rehabilitation case workers. That case load is down from an average of 80 workers per case worker a couple of years ago to 60 per case worker in 1993, which is a rather significant reduction in work for each case worker, allowing them to give better service.

**Activation:** In 1991, less than three quarters of the cases were referred to rehabilitation within six months; in 1993, 98% of cases are referred to rehabilitation within six months, so there are some very real and measured statistics that allow us to show positive results of the initiatives that are being taken.

I feel very gratified myself to have worked with one of the action planning teams that Odoardo mentioned, an action planning team composed of equal members of our local union, CUPE 1750, and non-bargaining-unit

members who were elected to the position on this team. These eight people were asked to go out and talk to our clients, to talk to our customers, to talk to the organization, those responsible for rehabilitation, and bring back that individual who could have the respect and with whom the clients and the employees of the board would work in rehabilitation.

This team brought me several people. It went out and it did the selection process and the vetting and it brought me back a chief vocational rehabilitation officer, one of the key recommendations of the chair's task force, the bipartite task force of employers and workers. Catherine Rellinger started on August 15 as the chief vocational rehabilitation officer.

The chair had mentioned that in addition to the service delivery—which involved responding to the telephones, the letters, those sort of quantitative things, those numbered things you can measure—there's a qualitative side to service delivery as well. We went out and actively looked for areas where we were suspicious that we were not doing a good job from a qualitative point of view.

The chair mentioned a huge computer system called the workers' benefit system. We had an audit done of that system. We didn't have to, but we were concerned as to whether it was providing the sort of quality service that our customers deserved. It's very unfortunate. That audit found significant problems. That audit found that 40% of the temporary compensation payments going out were in error. Now, that's not something I like to report about the Ontario Workers' Compensation Board, but that is something that was inherited, that was dealt with face-on, was looked at and was corrected.

So we established a special payments unit. We gave them intensive training on the proper calculation of benefits to workers. Within a very short while, we had the accuracy rate up to 98% as measured regularly in that unit. I want to stress that I'm not too sure you could ever achieve 100% accuracy because of slightly different interpretations different people might put on the same facts.

The imaging system, which again came up for much discussion at the standing committee as being a horrible thing to import into the workers' compensation system—it's basically a paperless office. Basically, people don't have to touch paper at the Workers' Compensation Board in certain jobs, but can do all of their work on a computer screen or on an imaging screen. I, along with the chairman, walked the floor of the Workers' Compensation Board. In addition to the standing committee telling us that imaging was a problem, we were told by the front-line workers at the Workers' Compensation Board that imaging was a problem.

We set about to develop a plan to recover imaging, to make the technology fit the work rather than trying to make the workers fit the technology. Let me give you



a couple of things that were done. Some 1,700 employees of the Ontario Workers' Compensation Board received intensive training on how to utilize imaging to the best advantage possible. We sent around a user satisfaction survey to tell us: What do you think of this technology? Where did it go wrong? What can we do to improve it? And we began the improvement process.

To give you some idea of how much improvement there is, in 1992 the average request for a document to come on to screen was one and a half seconds. Now, that might not seem like a lot of time, but any of you, especially any of you who have children who are playing with their computer, know one and a half seconds can seem like an interminable amount of time if you have to keep calling different data up. We were able to reduce that response time in the imaging system, in one year, from one and a half seconds average down to less than half a second average per document. That's the kind of thing that is happening in the imaging system.

Finally, in terms of service delivery, it's not enough for Mr Di Santo or myself to say we're doing better. Some of you might actually not believe that. So we set about to develop and to undertake a client satisfaction survey. This is a massive survey. It's professionally done. It was done in 1991 and the same survey of the key stakeholders was done in late 1992 and was reported in early 1993.

This satisfaction survey goes out to injured workers and it says: "Tell us what you think of what we're doing. Do you like it or don't you like it?" It goes out to the employers of Ontario on a random basis and says, "Tell us whether you like what we're doing or don't like it." I think this is important because I can say whatever I want, as can the chair, but our customers or our clients told us the following:

In 1991, when we measured, 30% of the employers in Ontario were very unhappy with the service provided by the Ontario workers' compensation system. That's almost one third of the employers. When we measured in December of 1992, or two years later, 19% were unhappy. Now, that doesn't please me that 19% of the employers in Ontario were unhappy, but we showed over a 30% improvement in those employers who feel we're doing a better job or who are not unhappy with what we're doing.

The contrasting figure: On a scale of 0 to 5, employers marked us a 3 in 1991 in terms of satisfaction; in 1993, they marked us 3.4. In other words, we moved up from 60% satisfaction to 68% satisfaction.

In 1991, 17% of the workers were unhappy with what the Ontario Workers' Compensation Board was doing. The contrasting figure in 1993 is 13%.

**Mr Bradley:** You should give the figures of the

constituency offices; they clash with those.

**The Chair:** Mr Bradley, if you could wait until Mr King is finished. Thank you.

**Mr King:** I'm prepared at the appropriate time to comment on constituency offices, Madam Chair, but I'll perhaps move on from these remarks.

I'll maybe skip the prepared text for the next while merely to point out that a good deal has been said about the economic position of the Ontario WCB. A good deal has been criticized, and people have thrown numbers around, sometimes mistaken numbers—one hopes those are honest mistakes; sometimes I'm afraid they aren't—about the financial situation of the Ontario Workers' Compensation Board.

1510

I would argue that this is a non-partisan issue. I'll take you back to 1983, if you want to be non-partisan, to tell you that in 1983 the unfunded liability of the Workers' Compensation Board rose 42%, or \$600 million. I'll take you to 1985; the unfunded liability of the workers' compensation system jumped by 100%, almost \$2.7 billion. I will take you to 1989, when the unfunded liability of the Ontario Workers' Compensation Board jumped 15%, or \$1.1 billion.

The year that Mr Di Santo and I arrived, the unfunded liability increased by \$1.2 billion. We inherited a \$1.2-billion increase in the unfunded liability. That is a figure that many people throw out as, "The board is losing \$100 million a month."

Let me tell you what the projections for the half-year are now, in 1993, in Ontario. We project the lowest increase in the unfunded liability in the past 10 years, both as a percentage and as a dollar value. In terms of the percentage, we project the unfunded liability to increase only 4%, or \$440 million. Contrast that with \$2.7 billion, \$1.2 billion, and I would argue that perhaps we should consider this to be less of a partisan issue.

**Mr Bradley:** I was in the House back in the days when there was a different opposition. They wanted a partisan issue—

**The Chair:** Excuse me. Mr King, would you continue, please.

**Mr King:** How is this being achieved? I think I have tried to describe, through what some might consider self-serving comments, that it has been service delivery, it has been attention to the customer or to the client, it has been improvements in the way we're doing our business and in rehabilitation, and the figures on duration show that we're coming down rather dramatically on the average time lost on each claim. Again I won't go into lengthy statistics at the present time.

Let me move on to take on a question Mr Di Santo dealt with, that is, the area of fraud. Some people in Ontario seem to believe that three weeks ago fraud began occurring in Ontario in its workers' compensation



system. I believe it was about four weeks ago that the Insurance Bureau of Canada said: "We have a lot of fraud in our system and we're going to do something about it. We're going to appoint a task force to study what to do about this." Well, at the Ontario Workers' Compensation Board, we began over two years ago to put ourselves in a position to deal with the problem presenting itself in the area of fraud and workers' compensation and, as Mr Di Santo pointed out, not in the more limited sense that some people think but in four areas: employers who are attempting to pay less than their fair share; workers who may be attempting to take benefits to which they're not entitled; suppliers of the WCB who may be billing us beyond what services they're providing; and very unfortunately, in some limited cases, employees of the board.

We reported in some detail, in April 1992, to our board of directors what we had been doing in the area of fraud detection and fraud prevention, and our board agreed with us at that time that we should have a comprehensive strategy. Fraud strategy doesn't mean you have a whole bunch of policemen at the far end out investigating when someone has robbed the cookie jar. A fraud strategy involves several steps.

It involves, first and foremost, prevention. Prevention doesn't come by setting a whole bunch of screens in front of employers registering or workers claiming benefits. Prevention comes from having in place the proper human resource policies so that the employees you hire and promote can be the kinds of employees you can trust or have more trust in than not.

It involves having a systems development that has the checks and balances that allow you to see red flags go up when there are unusual behaviours. It involves doing spot audits in a real and comprehensive way. It involves working with our external audit and with the Provincial Auditor.

Prevention is board-wide. It's education. It's part of that training that I mentioned. Every employee who is in a position to identify or prevent fraud is receiving fraud detection and prevention education. It's detection. It's the sorts of systems programs and spot checks you have.

Finally, it is investigation and pursuit.

We have moved in two years from having one person who didn't do any primary investigating at all but who was merely there to look at a suspected problem and to refer it to law enforcement agencies, to where we have now over 20 people primarily investigating, looking at cases, determining which ones need the professional investigators, the law enforcement investigators we've hired; looking at ones where we should partner with law enforcement agencies in Ontario whose resources are very limited and who don't want us coming to them with a bunch of false alarms.

We have gone out and actively sought partnership with the Unemployment Insurance Commission, with the Health ministry, with Canada pension plan officials, with federal and provincial and municipal law enforcement agents. We have partnerships with the RCMP, with the OPP and with Metro and local police forces so that we share information that will help us all combat and deal with a significant problem during these difficult times.

Again I juxtapose the response that the Ontario board began two years ago with that of the private insurance industry which several weeks ago was saying, "We should appoint a task force to look at the problem."

Let me move quickly on to the future. I think Ontario has one of the most historically interesting and sometimes challenging workers' compensation systems in North America, if not internationally. It has formed part of the fabric of Ontario. I think the system needs reform. I think it needs reform beyond what we probably are capable of achieving at the board. I think Mr Di Santo, in his role as the chief executive officer, can bring policies forward for our board of directors to consider, policies which will reflect better rehabilitation, a better human face on the Workers' Compensation Board, a better and fairer treatment in the bipartite agenda between workers and employers.

But we have other problems. I've had experience in visiting 11 of the other 12 Canadian jurisdictions, and it's apparent to anyone who looks that the system in Ontario is the most adversarial system going today in Canada. It closely mirrors the American system whereby lawyers for the two sides, the employers and the workers, fight it out before a disinterested administration as to whether benefits should be paid or whether they should be terminated.

1520

That isn't the system that Chief Justice Meredith recommended for Canada. The system that he recommended for Canada was a system of administrative law where an independent board made an inquiry and workers didn't have to fight for rights that they had under the Workers' Compensation Act. The administration guaranteed those rights. Employers didn't have to fight to be treated fairly under our workers' compensation system, didn't have to hire lawyers or advocates in order to make sure that their assessment rates and their position in front of an appeal of a worker's case were properly handled. That was the responsibility of the administrative body.

In my opinion, this adversarial system is next to out of control in Ontario because we cannot run those 400,000 claims through the system in a timely, in a professional and in a fair manner unless we're given some relief from what is basically an adversarial or litigious system that is more amenable to the courts than it is to an administrative tribunal.



The second area that I think needs some work in Ontario is in the area of assessment rates. Right now, the Ontario system is trying to match what I will call the actuarially based insurance industry's view of how you set a proper price for a product or an assessment rate. That drains our resources incredibly. Millions of dollars are spent by the WCB in order to set up some sort of pricing system for employers that comes in a collective liability system where all employers are collectively liable for all of the costs of the system, and I think people have to look at that.

What is the board doing? The board has a strategic planning process under way that is rapidly coming to a conclusion. It involves eight different areas and it involves some of the areas that I've spoken of or that Odoardo has spoken of today, and this strategic plan I trust will deal with many of these endemic problems in workers' compensation, including the costing of the system or the underfunding of the system.

Secondly, enormous efforts are being made to de-bureaucratize the WCB. The WCB is a huge organization and it's a very layered and structured triangular, top-down organization involving almost 5,000 employees spread between Thunder Bay and Ottawa, between Sudbury, Timmins, North Bay, Hamilton, all across Ontario, and we simply must get the decision-making to the very front end of the system if we're to meet the needs of those who are our clients.

One of the key steps to that was in action planning, and that was an attempt to democratize the future, and some very real decision-making was placed in the hands of the workers. I mentioned to you already that in partnership with our collective bargaining agent, 15 or 16 action plan teams were established and they were asked to help us meet several planning objectives. They were given a guarantee by the chair and myself that, provided they were able to come up with plans that met the objectives in front of them and were met within the resources available, the employees of the board would be allowed to plan the future way we do business. I think the action planning is our future.

I think that I'll cut short any other comments and my prepared remarks in the interests of some comments that have been made by members earlier that they wished to proceed on to questions.

**The Chair:** Thank you, Mr King. Originally, we were going to go in 20-minute rotations, but there's an hour and a half left this afternoon. Would the committee like to take 30-minute rotations each caucus? Okay?

**Mr Steven W. Mahoney (Mississauga West):** That's agreeable.

**The Chair:** All right, that's agreed, and we would start with the official opposition, Mr Mahoney.

**Mr Mahoney:** Thank you, Madam Chair, and thank you, gentlemen, for your presentation. A couple of very

brief comments, and then I have some questions, and I'll leave it up to you to decide whether Mr King or Mr Di Santo wants to answer them. I'll just ask them and you can determine. Perhaps I'll go through Mr Di Santo as chair and he can coordinate it there.

I was interested in a couple of comments, one that Mr Di Santo made having to deal with economics forcing many difficult choices. Clearly, all government agencies, and indeed governments and individuals in our province and in our country, are certainly faced by that. That's probably, in today's climate, the overriding factor for most decisions, although I would certainly agree with the sentiment that it should be and hopefully would be the goal of any workers' compensation system to provide rehabilitation and, in the interim, sufficient compensation to those workers who are injured. I don't think that it need be an issue of being pro-worker or pro-corporation. Both are needed in this instance. The corporations are needed to fund the operation and the workers, certainly with the injuries, have to take that into account. The economic concerns clearly, I think, are very critical.

Another comment that I think Mr King made was that you look for red flags to pop up from time to time when you're analysing the operation, whether it be in analysing service delivery—which I frankly would agree is the key in this whole issue. But I think before we get to service delivery and whether or not there are red flags, I have very real concerns that not only surround the new headquarters but surround specifically the process that has been used in purchasing and acquiring some of the products and the contracts that have been given out in relationship to this particular building.

I would refer you, Mr Di Santo, to the issue of the access flooring that was recently awarded in the form of a contract and the fact that the Workers' Compensation Board decided to go cross-border shopping and indeed buy an American product, manufactured in the United States, albeit distributed by a local firm but still an American product, clearly in contradiction or in the face of economies that could be saved had you decided to use a locally manufactured, in fact Oakville-manufactured, flooring system. This is about \$3.5 million in the form of a contract and, for committee members, it is access flooring that simply is like a subfloor that is installed that allows you to put your computer wires, electrical wires, telephone wires etc underneath the floor.

There was a request for bids. There were four companies that were called in and asked to submit their specs. Those four companies' products were approved—I'm sorry, three of the four were approved to submit to a tender. The three are local firms. One of them went so far as to suggest an alternative flooring system, one that, it just so happens, is currently being installed in the Ontario Provincial Police building in Orillia, currently



being installed in that government building. They suggested a flooring system that, I would show you here, Mr Di Santo, has an approval stamp from the Ministry of Housing of the provincial government and it is 100% manufactured in Canada, in Ontario, in Oakville, by a company called ASP who manufacture this particular flooring. They submitted this as an alternative flooring system that meets the specifications of the provincial government and is currently being installed in the Ontario Provincial Police building.

I have letters and research documentation that will show letters have gone from Mr King to this company telling them that they're out of luck, from Mr Di Santo to this company giving them reasons that the decision was made and by ending it up with Mr Di Santo saying, "This decision is final and I trust that you will abide by this decision"—somewhat heavy-handed, I might add. In any event, the decision was made to use the American system that is manufactured in Grand Rapids, Michigan, contrary to a proposal. I haven't said yet, Madam Chair, but you might be interested to know that Canadian flooring, again acceptable to the Ministry of Housing, acceptable to the Ontario Provincial Police, was \$500,000 cheaper than the American flooring that was purchased by the Workers' Compensation Board.

Mr Di Santo, can you help me in understanding why you would ignore—I might add, ASP pays \$50,000 a year in workers' compensation premiums, they're one of your supporters and have 50 workers who are going to be out of work as a result of your going south of the border to acquire this product. Can you help me and explain why you did that, sir?

**Mr Di Santo:** Madam Chair, I will ask Brian to give a more comprehensive answer to this question, but in general terms what I'd like to say is that I had some correspondence with the company that Mr Mahoney talked about. As you will see, as on any coin there are always two faces, also in this there is something that probably Mr Mahoney doesn't know about. But in general terms, I want to say that when I came into these hearings where we are to review the Workers' Compensation Board, an institution that affects the lives of 400,000 workers every day who have accidents, and the way we deal with them, the only question that I was asked by the press was about the floor. I must say, that's really disappointing.

1530

**Mr King:** I think the question of what kind of technical flooring should be used in an office tower that is over 30 storeys high may be the sort of question that professionals should deal with on the basis of professional judgements rather than to relate it to the fact that the OPP may be building a building somewhere else in Ontario. But let me just quickly respond.

The type of floor to be used in Simcoe Place was reviewed by design engineers, by architects, by electri-

cal engineers and by the developer. It was their unanimous opinion to go with the type of flooring that is now ready to go in Simcoe Place. They did look at the alternative of the woodcore flooring that you referred to in your question, and unanimously agreed not to go with that.

The particular contractor you're referring to was pleased to participate in bidding on the type of flooring that we are using in the building or intend to use now. It was only after being unsuccessful in achieving the bid that they began to lobby heavily for this other type of flooring. I'm not too sure it's fair that once you've lost an open and honest competition you then begin to ask for different rules to be set or for a different game to be played than the one you entered.

Thirdly, I don't call myself qualified to comment on the professional side of whether a woodcore flooring or a concrete flooring is best to be used. I have to rely on the advice of the experts, those professional engineers and architects. They told me, when I was asking about it, they have concerns about the potential combustibility, the potential for expansion if there should be water leakage into the system and that it has not got the same acoustic properties. I have to rely on professionals whom I hire to advise in the areas such as this.

Having said that, that was after the fact, because the WCB was not the one to ultimately make the call on what type of flooring went into a building. That was the decision of a developer who was there to provide us with the best building for the money; a value-for-money building, if I dare use that term.

I will point out that 80% of the materials used in the present contract are Canadian and that any reference to initial costs may be far outweighed by any potential long-term costs in the preferred flooring of the unsuccessful bidder on the contract.

**Mr Mahoney:** Mr King, you'll forgive my unprofessionalism when it comes to the construction industry, I'm sure, but my information does come from professionals who have analysed this. Let me clarify the record here very clearly. ASP did not launch a campaign after having lost the initial bid. ASP advised the Workers' Compensation Board that it could save half a million dollars prior to even submitting the bid if it would only consider using the same system that's currently being used by another government agency, namely, the Ontario Provincial Police, and approved by the Ministry of Housing. So you should be clear that they didn't launch into some campaign out of bitterness after having lost some kind of contract; they attempted to communicate with workers' compensation, with all of the agencies.

Let me tell you that one of their responses in a letter from Mr Di Santo says that this supposed group of representatives from the developer Cadillac Fairview, as well as key consultants involved in the selection of the



access floor product for the new facility, have taken considerable time to meet and review each of the concerns that were raised. They did not, however, meet with the proponent. The proponent was trying to save workers' compensation half a million dollars, yet you refused to meet with the individuals to try to understand why.

The reasons that Mr Di Santo gives in his letter dated March 9 for going to the—and let me say that you may be disappointed, Mr Di Santo, that the only question from the press was on the flooring, but this is an issue that goes to the whole heart of the organization. With respect, it's an issue of leadership, it's an issue of governance, and it means that if the decisions are being poorly made in the construction of the new building and the individual contracts that are being let out, then that rests squarely at your feet. If that is the question of the day, then I think, so be it, because we the public, we the opposition, we the legislators, we the media must have confidence that things are being done properly at workers' compensation. In relationship to this particular bid, I do not have that sense of confidence.

You give the reasons:

"Better acoustic properties." This is your letter, Mr Di Santo. I would ask you, do you have a study that shows that concrete has better acoustic properties than compressed wood?

Your second reason: "use of non-combustible materials." Do you have some information that would indicate that compressed wood encased in steel is combustible in some way? I don't understand that, but maybe you can enlighten me.

"Ease of field cutting" was another reason. Is it easier to cut concrete than it is to cut wood? Maybe you can enlighten me on that.

"No dust in the cutting process"—these, again, are your reasons. Is there no dust in cutting concrete versus sawdust in cutting wood?

"Better load performance": There are statistics and studies in Ministry of Housing-approved documentation that shows that the load performance of the wood with the proper flexibility is in fact superior because it doesn't crack and is not subject to the stress that the concrete would be subject to. But you, sir, answered Mr Mead of this ASP Access Floors Inc in Oakville with a letter wherein you said that your strategy team has met and decided that, for all of these reasons, the particular system that you bought out of Grand Rapids, Michigan, is a system that is superior to the system that was being offered as an alternative.

It's my understanding that it's quite common in government-tendered business for companies to indeed suggest alternatives because those companies are also looking for ways to save the taxpayers—ie, themselves, in most cases—money. So they submitted an alternative

that is acceptable to other government agencies.

You've given them all these reasons, and I would ask if you have any kind of statistical data, expert data, that could substantiate the six reasons you gave this company for turning down their all-Canadian product.

1540

**Mr King:** I have to correct—

**Mr Mahoney:** With due respect, Madam Chair, this letter is from Mr Di Santo and I asked Mr Di Santo. He has signed the letter. Mr King did not sign it. I have a letter from Mr King, which is very short and simply says, "You're out of luck." If Mr Di Santo wishes to defer to Mr King, fine, but it's your letter, sir.

**Mr Di Santo:** I want just to clarify that, as has often been said about the building, there is not one single penny of taxpayers' money that is going into the building. It's the employers' money through the investment fund, and the employers on the board of directors have approved the building. So I want to clarify that at the outset, because this has been repeated and I think the public must know that there is no public money at all going into the building. It's the investment fund of the Workers' Compensation Board, and the employers, who are those who pay into the fund, approved the deal unanimously on April 25, 1981.

Second, as I said in the letter, the call has been made by the developer, because we have a leasing agreement with the developer and the developer is the one who is going to give us the best product. The developer of course has consulted all the technical people necessary, and we have agreed with their call.

Now, I don't think that, because a bid was not accepted because one of the suppliers was not accepted, we have to take that as the best offer. I want Brian to comment on this.

**Mr King:** Just to correct the record, it has been stated that the Access Floors group was not a participant in the concrete-filled steel panel bid. That is an error.

**Mr Mahoney:** Who said that?

**Mr King:** I would have to have the Hansard record checked on that. That's certainly what I heard.

**Mr Bradley:** Now he's calling you a liar.

**Mr Mahoney:** I never said that. They did submit a bid. What I said is that they submitted an alternate bid at the same time with their Canadian-made product. But very clearly they were one of the three companies that were approved to submit a bid and indeed do a mock-up. The company you selected was a fourth company that was not on the original list and they were allowed to come in one week prior to the closing of the tenders—one week—to submit their own bid and make their own deal.

You say they made it with Cadillac Fairview. Are developers now making the decisions on behalf of



government agencies when it comes to awarding work in this province? If they are, sir, I'd be very interested to hear you say that.

**Mr King:** Can I just quickly respond? I will allow Hansard to determine what you may or may not have said regarding ASP Access Floors' involvement in the tendering process. In order to properly respond to many of the questions you raise, it would require bringing forward technical people, such as engineers, such as architects, such as electrical engineers, such as the developer. I suppose we're at the wishes of the committee as to whether they wish to have that sort of technical testimony brought forward. We could do so. We could bring forward the sort of analysis that was done of the bid that was put in by ASP Access Floors on concrete-filled steel panels that they were unsuccessful in winning the bid on and compare the experts as to why they chose concrete-filled over wooden-filled panels. I'm not too sure what purpose would be served, because it is a debate that I'm not too sure could have any conclusion. We went through a proper tendering process. We involved design engineers and architects and electrical engineers.

The specific question was asked, does the government not get involved in the building? Number one, the Workers' Compensation Board isn't the government.

**Mr Mahoney:** Government agencies, sir: Do you want to check Hansard again?

**Mr King:** The Workers' Compensation Board is a government agency. The Workers' Compensation Board is involved in an arm's-length transaction. The Workers' Compensation Board is involved with the developer in terms of its investment wing to construct an office tower. The Workers' Compensation Board is involved as a tenant in renting a part of that office tower. We do not have nor do we wish to have an interfering position over developing and delivering that building in the most value added way possible, saving the taxpayers of Ontario the most money. I think that if we began getting involved in questioning the developers' decisions, we would not be delivering a building which is to come in over \$20 million under its original estimate.

**Mr Mahoney:** I understand what Mr King has said. I wish that had been the answer to Mr Mead and the Oakville flooring company at the time. Had you indeed said that this was not within the realm of your responsibility or authority to deal with, then perhaps that would be a different argument that the individual could put forward. But that indeed is not what happened, either by Mr King or Mr Di Santo.

I'm also interested to hear that you are interested in saving the taxpayers' money, according to Mr King, and I accept that as a given, but I hear Mr Di Santo saying there is no tax money in this. I find that statement somewhat incredible. The money that you receive, sir, the money that the Workers' Compensation Board

receives, whether it be in pension contributions or whether it be in rates provided directly to your agency, is money that comes from companies, I'm sure you agree, throughout the province of Ontario, which are legislated to pay it. They have no choice. You can call it a premium if you like, you can call it a rate if you like or you can call it a tax if you like. They are taxpayers, each one of these corporations.

This company in Oakville is a taxpayer and paid you, in addition to the provincial taxes it they paid of approximately \$200,000 last year, a rate, a premium or a tax, call it what you will, of \$50,000 to provide coverage for its employees. They do not begrudge that or complain about that. That's a fact of life that is part of the cost of doing business. But to describe it as anything other than tax revenue, directly or indirectly, I think is being misleading and unfortunate in that regard.

Mr King goes on to say that we should leave this to the professionals. Why should we question it? Call it what you want. This building is being built by and for the taxpayers, directly, indirectly, however you want. You have a system of tendering that in my view has gone haywire in the case of the flooring that has led you to cross-border shop into Grand Rapids, Michigan, and to buy the product in the United States instead of sitting down with this company.

By all means, the tender information is here on the first tender. Quotes were provided by this company in Oakville to Jackson Lewis and to PCL, two of the contractors. Their quote was \$3.495 million. The next lowest was \$3.535 million by Camino, ultimately the company that won the distribution rights to provide you with the American-made product. There was another one at \$3.6 million and another one at \$4.1 million. Of the initial go-round, ASP Access Floors Inc of Oakville, Ontario, was lowest until the new company came in from Grand Rapids, Michigan, with one week to go to the closing of the tenders, until they were literally allowed in the back door to submit a bid that was not part of the original process.

How can anybody have confidence in the management at workers' compensation, sir, when you allow this kind of thing to happen to a local taxpayer, to an Ontario company, to provide you with a quality product? Why would you not at least, at the very least, instruct your strategy, technical, professional team—call it what you will—to meet with this company, to review the alternate bid that it was proposing that would have saved your corporation, your agency, half a million dollars and provided you with flooring that's acceptable to the Ministry of Housing and acceptable to the Ontario Provincial Police? Why would you not do that, sir?

1550

**Mr Di Santo:** We can prolong this discussion as



much as the members want, because we are in the hands of the members, but I want to repeat again that I don't think that this is the most overwhelming issue of workers' compensation in Ontario today, and I want to repeat for the last time that, first, as Mr Mahoney said, ASP presented this bill to the contractor, not to the Workers' Compensation Board, and his dealings were with the contractor. If Mr Mahoney thinks that we should intervene in any phase of the construction to check what the developer is doing, I think that he hasn't understood what the process is, because we have a leasing agreement with the developer and the developer is in charge of the construction of the building. I don't think that it's in the interest of the board to interfere in its operations. We want the building finished, the end; that's what we're going to get.

Now, if the dealings of ASP didn't go according to its desires, I suppose that when ASP participated in the first building, if it had received the job, it wouldn't have protested and it wouldn't have then said, "We'll give you \$500,000 back so you can save money." If he started complaining when his bid was not accepted by the contractor—

**Mr Mahoney:** Absolutely not true. I've said that in response to Mr King. They told you people the Premier is aware of this, the Minister of Labour is aware of this. They want to put you down as being an arm's-length agency that they have no influence over. They've written to this gentleman to tell him that, and now you're trying to lengthen your arms away from the issue by saying it's Cadillac Fairview's decision.

ASP came to the strategy group, came to workers' compensation, and showed you how you could save half a million dollars. Whether you want to call it taxpayers' money or not, I call it taxpayer's money. They showed you how to save the money, how to buy Canadian, how to support an Ontario company paying rates to you on an ongoing basis, sir, and I haven't heard any justification, in answer to your letter—it's your letter. I didn't make it up. You gave them all these reasons, and I haven't heard you tell me anything, statistically or in any way, that would prove that these reasons are justifiable.

A final comment, Madam Chair, before I go back to Mr Di Santo. Mr Gary Dunlop, senior vice-president of construction of Cadillac Fairview, on two occasions stated that this had not been brought to his attention with regard to the woodcore flooring and that he would not oppose it. If the Workers' Compensation Board wants a woodcore system, he would use the woodcore system. Now you're telling me it's not your decision. Senior vice-president of Cadillac Fairview in construction says, "If you want it, you'll get it." Why didn't you buy it?

**Mr Di Santo:** Mr Dunlop never made a presentation to me, never told me what he told, obviously, ASP.

What I am repeating to this committee is that if this committee's interested in knowing the reasons why the present flooring was chosen, we can bring the experts here, because unfortunately I'm not an expert. I spoke to you about what we're doing about service delivery and I'm willing to answer every question about service delivery because I think that's the job of the Workers' Compensation Board, to serve injured workers. I spoke to you about rehabilitation. I'm willing to answer everything there. I'm not a bricklayer; I'm not an engineer; I'm not an architect. I cannot answer this question. So if you want, Madam Chair, we can bring the experts and they will explain to you and give you the technical reasons why that flooring was chosen.

**Mr Mahoney:** If Mr Di Santo is not an expert, I accept that. If he's not willing or able to answer these questions, I accept that. I would simply point out that you did answer them in writing in a letter to the company in question dated March 9, 1993. Maybe your experts wrote this letter for you. Perhaps you should have allowed them to sign it.

One quick question. You say in here, "The Workers' Compensation Board is unlike many of the corporations you have mentioned"—corporations who use this flooring—"in that it has different operational requirements." Could you tell me, sir, what is so special about Workers' Compensation in relationship to other companies—banks, Ontario Provincial Police headquarters etc.—that makes it so special that you couldn't operate with the same flooring at a savings of half a million dollars for our taxpayers?

**The Chair:** Mr Mahoney, that question will have to be answered in your next round, because you're 31 minutes now. Ms Witmer.

**Mrs Witmer:** Thank you very much for your presentation this afternoon. However, I think it's become abundantly clear that the recent reforms and changes that you have attempted to make have failed miserably and there are still many systemic issues that need to be addressed. I can assure you that I met with a group of employer representatives and workers last week and I can assure you the criticism of the Workers' Compensation Board is persistent, it is growing louder all the time and we're also finding an increased polarization within the two communities. It appears to me that at the present time, the only solution that's going to be found is to set up a royal commission, because I can tell you there is absolutely no confidence, either from the worker or from the employer community, in the Workers' Compensation Board at the present time.

You referred to the fact, Mr Di Santo, that it's a social safety net. That's what's so unfortunate: Rather than remaining true to its original conception as a workplace accident insurance plan, it has become a universal system to compensate everyone for everything. That, with all due respect to you, sir, is the problem;



that is not the solution. Yet when I take a look at Mr King's presentation here today, I see that's exactly what he is proposing, a universal system.

So I'd like to start my questions with the unfunded liability, which Mr King did make reference to. Could you indicate to me exactly what the current unfunded liability figure is?

**Mr Di Santo:** At the moment, the unfunded liability is \$11.27 billion.

**Mrs Witmer:** The management section on the Premier's Labour-Management Advisory Committee reported at the meeting on September 7 that the unfunded liability, assuming that there were going to be no new programs—and we know you have some in the wings—and also they were conservative cost assumptions, was going to increase to \$31.5 billion by the year 2014. This projection, by the way, is based on data provided by the board. Can you tell me what actions you intend to take to stop this unacceptable escalation in this unfunded liability?

**Mr Di Santo:** This requires quite a complex answer that I will give in order. Let me start by saying that the people you met with were probably unhappy with the Workers' Compensation Board, and what I have problems with is your conclusion that the worker community and the employer community have absolutely no confidence at all in the workers' compensation.

Perhaps you have evidence to support that statement, but I must repeat in no uncertain terms, as I said before, that the Workers' Compensation Board is run not by Odoardo Di Santo and Brian King; it is run by the board of directors of eight members, four of whom represent employers and four of whom represent workers. If you look at the minutes of the board, the majority of the decisions are taken with a consensus, without a vote, unanimously, which means that the employers who represent the employers on the Workers' Compensation Board must be there thinking that they are representing the interests of the employers.

1600

You may disbelieve what we are saying, but if we take a client satisfaction survey, which is done professionally—and you cannot just dismiss it and say, "That's self-glorification." We told you that in three years' time, the employers and the workers have shown more satisfaction with the operation of the board, and that's the reality. It's not something that we are making up. So for you to make a general statement that no one has confidence in the Workers' Compensation Board I think doesn't serve the purpose of this review, because I expect that the legislators come to us and tell us, "You have no confidence for these reasons, because you are failing on this."

When I came to the board we had a 22,000 backlog in decisions review. Now it's down to zero. Is that a

failure? No, it is not. It means that we have dealt with 22,000 appeals and now the system is working. When we came to the board, we had thousands of non-economic losses to be decided because of the new legislation, not because the board wanted that. We are dealing with that. We had to give FEL, future economic loss. It's a requirement of Bill 162. We are dealing with that. We have no backlog at all. So is that a failure? I cannot accept a statement in general terms without any evidence.

Let's come to the unfunded liability. I must say at the outset that of course there are many people who are telling the world that the finances of the board are in a shambles. In 1985, the liability of the board was, as Brian described, increased by \$2.7 million, from—

**Mrs Witmer:** I know that, Mr Di Santo. I guess I want to refer to the future, in the year 2014. Will it indeed be \$31.5 billion?

**Mr Di Santo:** I'll come to that. If you don't give me time, I cannot answer you. The unfunded liability increased substantially in 1985, as it increased in 1989 for reasons that are justifiable. We are not blaming anyone, because the implementation of Bill 162 required that certain transitional rules be implemented, and they cost money. That's why the unfunded liability in 1989 increased substantially.

In 1985, if the board had to pay all its liabilities, it would pay only 32 cents out of a dollar; 32%. In 1993, we can pay almost 38 cents. So our situation has not deteriorated, so the board is not going bankrupt from that point of view. But you're saying that the Premier's council was mentioned—how much did you say?

**Mrs Witmer:** They used the data provided by the board and it indicated that by the year 2014, the unfunded liability would be \$31.5 billion.

**Mr Di Santo:** Okay. In 1984, when the government realized that the unfunded liability was going to be a problem in Ontario, the Davis government called Wyatt Co and they made a report and out of that report a strategy was outlined, that in 30 years the unfunded liability will be retired.

**Mrs Witmer:** That's right.

**Mr Di Santo:** If you read the Wyatt report, you will see that the unfunded liability will increase more than the assets until the year 1998, and then it will decline steadily until the year 2014, when the liability will be retired. What happened in the meantime would be that the assets would go from probably \$3 billion to \$41 billion and the liability will go from—at that time it was \$5.7 billion, to \$41 billion and then neutralized, because there was no liability.

So it was in the Wyatt report an expectation that the liability will keep increasing until the year 2000. So I don't know where that figure came out, but in the year 2014, if that strategy had been respected, we would



have \$41 billion liability, \$41 billion assets.

**Mrs Witmer:** Yes, I know that.

**Mr Di Santo:** The fact is that no administration before us has ever respected that strategy. In fact, in 1985, if the strategy had been followed, the rates would have been increased by 30%. They were not increased. In fact, the government decided that it was not feasible because of the economy. So that's why the unfunded liability is increasing; 1993 is the first year in history where we have the lowest debt—

**Mrs Witmer:** Yes, and you have repeated that several times.

**Mr Di Santo:** Yes, and I have to repeat that because otherwise people don't understand that this is the best fiscal year in the history of the board since 1980.

**Mrs Witmer:** Could you take me to the year 2014? Will the unfunded liability indeed be \$31.5 billion?

**Mr Di Santo:** Last year, the board of directors, and I have to repeat again that it's made of representatives of the workers and employers, decided that we had to deal with the unfunded liability and we wanted to do that in a consultative way, by going to the stakeholders, because it is easy to say that it's the taxpayers' money, but in fact those who really pay into the fund are the employers.

So we went to the employers and the workers and we had exhaustive public hearings with the employers and the workers, and we couldn't find a consensus. Why we couldn't find a consensus is because there are some crucial issues at the bottom of the workers' compensation system that have to be solved with the consensus of the workers and the employers. That's a real issue and you know very well that right now the Premier's council on management and—

**Mrs Witmer:** Mr Di Santo, will the unfunded liability be \$31.5 billion by the year 2014 based on the data provided by the board? Yes or no.

**Mr Di Santo:** I could say yes; I could say no. It depends on many—this is not a simple—

**Mrs Witmer:** You see, that's the problem. There is no credibility with the Workers' Compensation Board management. There's no credibility. "I could say yes; I could say no." Obviously, there is a response.

**Mr Di Santo:** I take it that there is no credibility from your point of view, but I'd like to explain to you how the situation can evolve. In fact, the Premier's council is dealing with that very problem.

**Mrs Witmer:** So you're saying, yes, it will be \$31.5 billion by the year 2014?

**Mr Di Santo:** By the year 2014 it will be \$40 billion if we follow along the present strategy. What we have to look at is we have to decide how—not with the board; collectively, our society—what type of system we want and that will have an impact on the funding of

the system because we have now a system that supposedly is to be funded 100% and is not funded 100%.

There are alternatives to that and that's what the Premier's council is studying, that's what the board of directors is studying in the strategic planning. That's not us; it's the board of directors, the representatives of the workers and the employers.

So if we come to the conclusion and if you read the papers that we released last year, we proposed a number of options. If you require full funding, then you require to increase the rates at a certain level every year or you require to look at benefits because there are employers who are saying that 90% benefits are too high. Now, is it acceptable to the workers? Of course, it's not acceptable. So what I'm saying is that if there is no consensus among the workers and the employers, this cannot be done arbitrarily.

**Mrs Witmer:** I guess that's what I mentioned to you. There is increased polarization within the communities that are being served and I guess I would say to you that there are systemic issues that need to be addressed and that the recent reforms have failed. They have not restored confidence in the Workers' Compensation Board.

**Mr King:** Can I perhaps be allowed a response? The question was really whether or not there is going to be a \$31-billion unfunded liability in the year 2014. Let me pause at an argument that we have brought down the expenditure side and continue to bring down the expenditure side in a dramatic fashion.

In 1989, there was \$4.2 billion spent on the expenditure side of workers' compensation. In 1993, there is going to be \$3.3 billion expended, almost a billion dollars of reduction in expenditures. What has happened is that Ontario has gone into a very deep recession. The revenue we received in 1989 was \$3 billion, and in 1993 it's \$2.8 billion, or \$200 million less.

1610

If we don't do something or if the actuary doesn't update to the reality that we are bringing down the costs, then there may be a \$31-billion unfunded liability in 2014. What I am saying to you is we are bringing the costs down, and part of the exercise in strategic planning in the Premier's council is to see if there's a consensus on either the revenue side or expenditure side to do better.

I didn't mention to you that the reduction in expenditures under the service delivery initiative I spoke of in my opening remarks is going to bring down the costs of the compensation system \$400 million in 1993. If we can continue that type of service, then I think the \$31-billion figure is based upon a faulty premise. It was based upon a status quo premise.

**Mrs Witmer:** Just to continue, you're indicating to me that the reason for the problem at the WCB has to



do with the economic downturn that this province is experiencing. Personally, I believe the problem is related to the fact that the board is unable to responsibly and effectively manage the system and the funds available to it. However, you have suggested in your presentation today that one of the ways in which we could resolve the funding issue is to move towards a flat-rate WCB premium for all industry in this province. Could you please respond? What is it that you intend to do or would like to do? Is it your intention to bring all industry, such as the financial services, in this province under the scope of the WCB?

**Interjection:** What page is that on?

**Mrs Witmer:** That's on page 18, bottom of the page.

**Mr King:** You cited mismanagement at the workers' compensation system. I think it apparent from some of the things that we went through that perhaps some mismanagement of the system has occurred, and I think it quite apparent from the remarks that we're getting a control over mismanagement. In fact, some of the things that we've had to deal with have been difficult to get our hands on, some of the things we inherited.

I suggest that rather than \$150 million of off-balance on something like experience rating, the board may be better off to indicate that all industry in Ontario is in the same category and that maybe it's time we looked at a UIC-style rate, which doesn't seem to charge employers and workers depending upon whether there's a lot of unemployment in the industry, but rather charges a flat rate which is reflective of the fact that society is a whole, is a holistic problem.

Secondly, any suggestions as to expanding the coverage under workers' compensation are not a subject that the board can deal with. That is a subject that requires regulatory change through government.

**Mrs Witmer:** Well, it's interesting—

**Mr Di Santo:** Can I complete the answer?

**Mrs Witmer:** Yes, you can, Mr Di Santo.

**Mr Di Santo:** As I said before, we are willing to be criticized constructively, but I think we have an obligation to correct the record. I don't understand what you meant when you said "mismanagement" at the Workers Compensation Board.

**Mrs Witmer:** Of the funds, the money.

**Mr Di Santo:** Of the investment funds?

**Mrs Witmer:** Too much money is being expended on workers' compensation.

**Mr Di Santo:** The administration for which myself and Brian King are responsible shows, and that's the record that we can leave with the committee, that in 1986 the administrative expenses increased by 15%; in 1987, 24%; in 1990, 15%; when we came—and that's the record—1992, 1.2%; 1993, a flat rate budget; 1993,

we are decreasing our expenses by 3%, and because of the social contract, a further 5%.

As I said before, despite that reduction in administrative expenditures, we have been able to get rid of the backlog, to increase our rehabilitation programs, and this with the approval of the board of directors. I don't think that can be called mismanagement.

**Mrs Witmer:** Well, I'd like to pursue the line of questioning that I was on, because I don't think I received a satisfactory answer. Mr King indicated that there was a revenue problem, and on page 18 you indicate that we have the smallest percentage of our workforce covered by the act.

"Large and historically prosperous sectors of Ontario's economy have always been outside the act, for reasons that are lost in the mists of time. If keeping this arrangement is in the public interest, then so be it. But we suggest that it be reconsidered...be discussed and resolved....One such issue is the advisability of moving towards a flat rate WCB premium for all of Ontario's industries, similar to unemployment insurance and the Canada Pension Plan."

Is it your intention to bring all industry in this province under the scope of the WCB?

**Mr Di Santo:** I think that we have to make clear at the outset that the Workers' Compensation Board cannot bring over the industries that we want. It requires a legislative amendment, and you will be part of the process. What we can do is we can make recommendations.

Now, the facts that you are saying are very true. In fact, we cover only 60% of the workforce in Ontario, unlike many other provinces, where every other sector is covered. Now, if that's desirable or not is debatable, but that's obviously one option that we have to put forward to the government. Personally, I think that coverage should be expanded because there is no reason why certain workers, only because they belong to different groups, are covered or not covered. If you are an accountant with a bank, you are not covered, but if you work for your own, you are covered. They do exactly the same job. I think, personally, that's an option that should be looked at.

As far as the decline in revenues, I want to bring to your attention that according to a Statistics Canada labour force survey, between 1990 and 1992 in Ontario, we lost—permanent job loss—286,000 jobs. Most of them are in the three major sectors: construction, manufacturing and mining. Some of those jobs are not coming back again. So we are dealing with a very harsh reality, and despite that, I think that we are performing well.

**Mrs Witmer:** Well, I guess it's unfortunate because we have a board that can't deal with the number of workers presently under its jurisdiction and here's a



proposal to somehow include all the workers in this province under the scope of the WCB. I mean, if we feel we've got a mess at the present time, we're going to see that mess expanded.

I'd like to just ask you: What are your thoughts considering the privatization of the WCB?

**Mr Di Santo:** The privatization of the WCB? Well, I know this is an opinion that has been expressed by some people without thinking it too much through, obviously, and I'll tell you why in a minute. I think that health and safety and dangers on the job and occupational decisions must be a public concern, especially because of the changing workplace that we are faced with and the changing nature of the workplace.

1620

We have examples, of course, of privatization, but if you look at those examples, I don't think that you'd subscribe to them. You look at the United States, where there are most of the private insurers, and if you look at the expenditures of those boards, you will see that the top expenditure is for legal fees, the second-highest expenditure is for medical care, and the lowest expenditure is for benefits. You may think that if you have privatization, you have a better system, a less expensive system. That is a fairy tale. In fact, if you look at the figures in the United States between 1980 and 1991, the average compensation paid for US claims goes from \$4,300 to \$12,300—threefold—because of those legal expenses, because of those medical expenses.

I think, personally, that Justice Meredith was very right when he thought that employers and workers should make a fundamental covenant by which the employers would pay into a fund and that fund would compensate for injuries and for disabilities arising out of the workplace.

**Mrs Witmer:** Justice Meredith was on the right track 80 years ago. However, what we have here is not a workplace accident insurance plan; it's very much becoming a universal system to compensate everyone for everything, and we know that one of the areas being considered for expansion is stress. We've got the coverage for workplace stress, and we know that could add \$178 million a year to the cost of the WCB. I'd like to know: What is the current status of the workplace stress proposal?

**Mr Di Santo:** Madam Chair, I think I have to correct the statement made by Mrs Witmer, the statement that this is becoming an insurance for all. It's not an insurance for all. We are governed by the Workers' Compensation Act. You are a legislator and you contributed to pass or to oppose that act, but our obligation is to comply with the act. We cannot compensate at whim only because we want to compensate.

Workplace stressors are obviously a real issue. It's not something that has been invented by the Workers'

Compensation Board. I must tell you that the Honourable Robert Elgie, who was the chairman of the board, was the first chair who directed his attention to this issue, not because he wanted to, not because one morning he decided, "Well, we have to deal with stress," but because there were disabilities that were claimed by workers, and today Ontario is not compensating chronic stress. It is not.

Now, you mentioned the California—

**Mrs Witmer:** No, I didn't mention California.

**Mr Di Santo:** Okay, let me rephrase. The \$178 million that you mentioned was based on the experience of California. You would have had a different figure if the parallel was made with Saskatchewan or with Quebec, because they have different approaches to chronic pain.

However, when I came to the board with Brian King, we found that the board had a discussion paper, and the board of directors collectively—not us—decided that we should go out and talk with the stakeholders. In fact, the Honourable Robert Stanbury and Jim Goodison, who were at the time the two vice-chairs representing workers and employers on the board of directors, went out for long months and received hundreds of presentations. Of course, what they found was that there is no consensus in society, because if you listen to the jail guards, you would have compelling examples of chronic stress. If you listen to firefighters or police or nurses in mental institutions, you would have that. On the other hand, there was a position taken by the employers that the cost of compensating chronic stress would be excessive, so there was no consensus.

As I said before, the board is not run by a person, by decree; it is run by the board of directors. If they decide at that point that we want to deal with this in a strategic way—and the board of directors, as I said before, is developing a strategic plan to look where this board is going in the next 10 or 20 years.

At the same time, I must tell you that that has been the concern of the Premier. The Premier's council on labour and management has been asked to deal with the crucial issues of workers' compensation. One of the crucial issues is what workers' compensation should compensate, and regardless of what Brian King or I think, it's the government, hopefully with the consensus of the employers and workers, that will devise a new course for the workers' compensation. One of the outcomes may very well be a royal commission, and I agree with that. What I don't agree with is that because I've been there only two short years, I've been made the scapegoat for all the problems of the world, because that is not so.

**Mr Marchese:** In reference to what Mr Mahoney has raised, I want to suggest that you do bring some technical people to talk about this matter, because I



suggest that Mr Mahoney will raise it again and you'll have to repeat the same answers, and whatever technical knowledge you're referring to may not be trusted because obviously, both of you pointed out, you're not the technical people with that expertise. So I would recommend that you bring somebody along the next day, because I think that issue needs to be addressed with the kind of expertise that you have been relying on.

**Mr Bradley:** You'll be dragging Hydro in because they're experts. They'll snow you under for 10 minutes.

**Mr Mahoney:** Could we get a bigger room?

**Interjection:** We had to listen to you, so now you can listen to us, guys.

**Mr Marchese:** My questions are more on the service that we give to injured workers, because I know that we'll get back to these other matters in the next three days, and that is the concern I have because of the kinds of clients we get in our constituency office with the problems they speak of. But before I get to the clients, I want to ask you another question.

Part of my experience as a teacher and as a politician with the school board before was that whenever you make reforms to service delivery or to methodology or whatever it is that you're doing, if you're not involving the workers, we have learned that reforms fail, because they sabotage it if they want to and they can sabotage for years and years. The question I want to ask you is, in the reforms you have planned or you are planning, to what extent have you involved the workers at the compensation board in a way that we get the best from them so that reforms are meaningful?

**Mr Di Santo:** When we came before the standing committee on resources development in June 1991, there was a large group of people who made presentations. As we said and we recognized readily, service delivery was indeed a problem. That was not because we wanted to blame the previous administration or the previous government, but because the way it had developed at that time, a new technology had been introduced. The board had the largest computer system in North America and it wasn't working well. They introduced a workers' benefit system that was very fast but unfortunately made too many errors. Nobody was condemning anyone, but we said we have to deal with the problem, because we received at that time more than 20,000 phone calls every day. The board tried to solve the problem by introducing recording machines, which of course multiplied the problem.

1630

We responded immediately to the standing committee and I appointed a task force which, I have to repeat, was made of representatives of workers and employers. If Dennis Schweitzer was ill, it was one of the workers' representatives. They had the mandate to look at service

delivery and rehabilitation.

We had also seven advisory groups in the regional offices, and the employers and workers went out with the task force and they came with the task force report, and I must say, for the first time in history, given the climate in 1992, it was a miraculous report because it was unanimous. It was a consensus report of the employers and the workers, so we decided that we would implement the report.

You know what our governments do most of the time. They appoint a royal commission, a task force to gain some time, and then the reports end up on the shelves. We decided we are going to implement this report, and in fact the board of directors approved the administration plan and we committed ourselves to develop a plan.

One of the things that I wanted to do when I came to the board was to change the corporate culture at the board. For 70 years, the board has been a pyramid where all the orders were coming from the top and the staff, the employees at every level, were the recipients of orders that came from a very small group of executives. The result of that was that the morale of the board was very low, and when we came to the board, it was at an all-time low, so we decided that we would change that; we would involve the staff. No more demotions or changing classifications without the involvement of the staff.

Bill 162 was a very complex piece of legislation, and to implement Bill 162 required an incredible amount of energy and an incredible amount of policies being developed. If you add to that the fact that the staff was not trained, for objective reasons, because the turnover was immense at that time, the result was that there was an incredible accumulation of papers on the adjudicators' desks and their inability to make decisions and to make the right decisions.

We decided that we would change that. How would we change that? By involving the staff in the decision-making process, from the bottom. I toured, personally, all the offices in Ontario, the regional offices and every ISU. I spoke with the staff and Brian King did the same, and we told them that we want to democratize the workplace and that we will do that with the help of the workers.

We decided to implement the action plan, not as it is usually done where you have a group of experts who know everything and they decide what is the best for the corporation and then they outline the action plan. We decided that we would involve the staff and in fact we asked the staff to appoint their own people, and 16 teams were selected. The union appointed its own people. The non-union staff, because as you know, at the bottom we have a situation where half of the staff is unionized and half of the staff is not unionized because of the act—the union appointed its own people and the



non-union people voted and elected representatives.

We told each team: "These are the guidelines. You go ahead and implement the action plan." We went to the point where action plan number one—we have Rumina DiValentin and Nigel Hunte here. They were asked, I must say for the first time in the history of the board, to go out and find a chief rehabilitation officer. That was one of the recommendations of the task force. They posted the ad in the papers, they interviewed the candidates and they chose the chief rehabilitation officer.

I think that's a profoundly democratic process that has helped us to change the morale inside the board. What that really means is that now we have more participation from the staff in the decision-making process of the board.

Just one more point and then I'll allow you, otherwise I'll take all your 30 minutes and you won't be able to criticize me.

**Mr Marchese:** If we don't do it today, we'll do it tomorrow. Do you want to make a point?

**Mr Di Santo:** The point is, that is happening also in the policy decision-making process, where we are comparing the uses of the policies, if those policies are good or not, and not only on the 20th floor some bright people developing policies that they think are the best.

**Mr Marchese:** Mr Di Santo, I did get snippets of the answer that I wanted and to some extent they answers the question. I believe you when you say that you've been involving the workers from the bottom up. I want to give you a comparison of what I mean by "the bottom up."

When, in the board of education, we decided to reform the education system at the secondary level, what we did was to involve teachers and principals by area. Hundreds of teachers came and we raised the questions. They had the questions in advance. They came and participated in that discussion. We knew exactly what they wanted to say. I have to tell you they spoke very frankly about what they saw as reforms that we should be making and what their fears were about what direction they felt the trustees were going in. We also involved the parents by area. So we involved all the clients and all the people who have to implement whatever results from those consultations. That's what I mean by involving the stakeholders.

If you do that, in the end what you have done is to buy in the support of the people who have to deliver the service. In this case, with the compensation board, I'm assuming you've done this with the employers, as you mentioned, and the workers. But I go beyond simply calling on a union representative or an employer representative by suggesting that we involve as many of the people who are adjudicators or people who work in pensions or finance, in all of the fields. That was my

question in terms of, have you done that, and to what extent are you thinking of doing that if you're going to buy in their services in a much more cooperative way?

**Mr Di Santo:** As I said in my introductory remarks, one of the tasks we undertook, Brian and I, when we came, was to open consultation with the stakeholders. In other words, we had a double approach: (1) to change the corporate culture inside the board and involve our workers in the work of the Workers' Compensation Board; and (2) to involve the stakeholders.

As you know, we have already an external consultation group which is made up of representatives of unions and industry and we consult with them.

I want to give you an idea of how widespread is our consultation. We set the rates for next year in July 1993 and we consulted with employers and workers throughout the province. We have an issue with schedule 2 employers. We had consultation from January 27 to June 14, 1993.

Coverage for training participants, which was a thorny issue—we had an incredible range of consultations from October 1992 to February 1993 and again in May because of the events that led to the government's decision; the use of medical assessments—these are issues the public doesn't know, but we have consulted with each workers' group and employers' group. We had consultations on occupational diseases, on nasal cancer. The public doesn't know that, but there are cases at Falconbridge where workers—and we have consulted with the union, with Falconbridge and with the employers. We have been consulting on lung cancer, which is a big issue for workers, after two years, if they are not at full potential or if they're not working again.

1640

Worker independent operator: It's a big issue in Ontario. Madam Witmer was talking about extending coverage. That's a very troublesome area and we had consultation. We consult because we think the input that the stakeholders, those who have a stake in the system—it's crucial for us to make decisions. On top of that, as I said before, we have a bipartite board where both stakeholders are represented.

**Mr Marchese:** I want to ask Mr King a question. You'll be able to fit it in, I suspect. With respect to the clients, what you said is that you have introduced standards of performance now as they relate to telephone calls, as they relate to mail, client relationship and so on. I'm interested in two things in relation to that. First, how do you specifically measure that? That's of concern to me. The other matter is, do any of these standards of performance connect to performance review of the workers as well? I presume it does.

The third question—I thought I had two, but I have three—is, how do we deal with the language problems that I'm sure you're very familiar with, and that I am



familiar with as an MPP in my riding where most of my clients are Portuguese? When they call in and they find an answering machine, it becomes very complicated for them. Of course, when they do that, they'd have to use other people, because if they do it on their own, many of them find those machines very confusing and very difficult. Are you also dealing with that as part of your standards of performance and performance review?

**Mr King:** I think the chairman was being a little too self-effacing when he described how much consultation occurs with our employees. I don't believe there has been a chair of the Workers' Compensation Board who has visited more of the employees of the board, spoken to them face to face, asked them what their concerns were and then helped me to try to understand, as the chief operating officer, what those concerns were as expressed to him in this very informal and non-threatening setting. I believe it's fair to say that the chair has toured the regional offices as much as anyone to try to get an understanding not only of what it's like to work at 2 Bloor but to understand what it's like to work in Sudbury, Thunder Bay, North Bay, Timmins, St Catharines, Hamilton, Ottawa, Peterborough and Sault Ste Marie. I apologize to any member who's from another geographic area that I missed. So first, the chair takes very seriously the need to get to know the employees and to listen to them.

In terms of my own initiatives in listening to the employees and trying to make them a part of the operation, as a part of the planning process to deliver a better service with fewer resources, I evoked or asked all of the staff to become involved: How can we do a better job for those we serve in a more efficient way?

By the way, we developed this before something called social contract. This wasn't in response to, this was well in front of others realizing perhaps that the resources had to be diminished.

One of the things that was done was a mail-in campaign: "Here are the ideas of the employees of the compensation board on how we might do a better job;" if you will, a suggestion box. Hundreds and hundreds and hundreds of Workers' Compensation Board employees returned this. There was an optional space for people to put their name and telephone number.

In a threatened organization where employees don't feel a part of it or feel threatened, you would think most people would remain anonymous. The vast majority of those hundreds and hundreds of employees who came forward signed their name proudly and put their telephone number so I could call them and talk to them about their ideas.

This is no small achievement given the fact that two and a half years ago when Mr Di Santo and I arrived, only about 11% of the employees of the board trusted the senior management at the Workers' Compensation Board.

**Mr Bradley:** What did we do before you guys arrived?

**Mr King:** These are facts that are available for people who wish to look at facts.

**The Chair:** I think perhaps we shouldn't interrupt when someone else is speaking.

**Mr King:** Thank you, Madam Chair. Finally, in terms of the involvement of the employees, our unit is split, strangely, into two equal numbers of groups. About half of our employees are unionized, with CUPE 1750 being the bargaining agent, and about half of them are non-bargaining unit employees. Hopefully, if sector reform comes forward, our employees all will have the choice as to whether they want to be represented by a bargaining agent.

Notwithstanding, we have approximately 2,500 employees who are not represented by a union. When it came time to consult with them about the social contract and what would happen to them, we allowed 2,300 people to vote who didn't have any rights to vote under a collective bargaining plan, but as non-bargaining agents, we sent them all a ballot after a series of information meetings.

To show you that this is not false horn-blowing, almost 2,200 out of 2,300 people during the holiday period voted on what they wanted to see us achieve. When you get a higher level of people voting than vote in a provincial election, I think you've got some involvement of your employees. If you want lessons, maybe we could assist.

**Mr Mahoney:** Secret ballots?

**Mr King:** These were secret ballots. The question was measuring service. The service delivery requirements or expectations of the WCB were developed in close consultation with our stakeholders, employers and workers, in the presence of the two vice-chairs of the board of directors, one who represents workers and one who represents employers. They went out to their constituencies and gave to us suggested measures of performance for answering the telephone, for answering letters, for getting an appeal through the system and, in some cases, we measure precisely, such as delays or any delays there are in appeals. We track each appeal.

In terms of the telephone, our system is able to monitor the times we don't answer the phone when people abandon the phone calls. There's a computer program that actually monitors every call that comes in to determine whether it's answered before people abandon it, so we measure it and report on that every month.

In terms of letters, we do random samples of letters to determine whether or not we're meeting our service delivery expectations and report that.

A further question is how we deal with language issues, and I think I'll defer to my colleague Mr Di



Santo, who has made it probably one of his wishes in life over the past two decades to assure that the workers' compensation system is sensitive to the multicultural community at large.

**Mr McLean:** On a point of personal privilege, Madam Chair: On the very question that was asked, the gentleman gave the indication with regard to the phone calls that are monitored. Could we have that presented to the committee tomorrow? I would be interested in knowing just what types, how long the phone calls and who doesn't get answered.

**Mr King:** Yes, we can provide that information.

**Ms Carter:** I'd like to put some of this into a wider context. First of all, I'm glad to hear you say that your emphasis is to help injured workers and obviously to do it efficiently and in a financially sound manner. We still have a very terrible statistic as to how many cases are coming before you, the number of people who get injured or who get sick. Accidents are very easy to pinpoint because there's a definite occurrence, but of course there's the other field of work-related diseases which are much less definable, much less easy to pin down.

1650

I understand that asbestosis and mesothelioma are now listed and eligible for benefits, but I'd like you to let me know where we stand on that. For example, I know that in the past there have been problems with arsenic connected with gold mines and ground level ozone. Of course, one point that I think needs emphasizing is that a lot of these work-related problems are actually at the basis of problems which affect the broader environment, so that if they're dealt with at the workplace level, then we're looking at improving the environment for everybody. I think acid rain, ground level ozone and tritium are examples of things like that.

I remember, for example, the fight that there has been over lung cancer and uranium mines. I have even spoken relatively recently to people in my own area who tell me of health problems which arise in specific industries and which would be preventable. As a society, we're tackling cigarette smoking very effectively, but I understand that works synergistically in a lot of workplaces with the problems that are found there.

I know that the workplace hazardous materials information system regulation has made a difference, but I'm just wondering whether you're satisfied that you're progressing as you should be in keeping the number of cases down or whether there's still a lot more that has to be done.

**Mr Di Santo:** When I came to the board, this was one of the priorities that I chose because I realized that Ontario was lagging behind in recognizing and compensating occupational diseases in a variety of fields. Even today, this is, I must say, a very complicated area. I

spoke Friday with an injured worker from Bracebridge who came to the board with a respiration device. He has scars on his lungs and he was a smoker and he has very serious health problems, but because of medical knowledge, because probably the doctors who looked after him at the time when the disability developed were not equipped, he is still fighting to be recognized, and I don't know if he will make it.

**Ms Carter:** Well, that's my concern, the amounts that are being recognized.

**Mr Di Santo:** It is very serious and very real. When I came to the board, we started developing an agenda for occupational diseases, and I must add that on the board of directors we have a former miner from Sudbury, Homer Seguin, who is a very strong advocate for occupational diseases. As you said before, we were able to compensate for lung cancer for gold miners. Unfortunately, I must say, most of the people we compensated were widows because the workers were not there any longer.

We have scheduled, as you said, asbestosis and mesothelioma. Now it has been approved, it's in the schedule and we are working with the Industrial Disease Standards Panel to update the schedule; the IDSP is the agency that is developing policies about occupational diseases. We are working also on nickel lung cancer and on occupational asthma.

I must say that we at the board are working in total cooperation with the workers and employers, because we realize that this is a very difficult area and we need consensus of employers and workers. We haven't been able to compensate for nasal cancer. One of the things that unfortunately complicates this area is that the scientific evidence and the medical evidence is developing slowly and for many people, unfortunately, as I said before, it's too late. But we are moving in this area and we hope that we can complete our agenda before my term expires.

**Ms Carter:** I did want to ask another question, but we're short of time so I'll defer.

**Mrs Haslam:** Mr Di Santo, I'm going to talk fast. I don't know you, but I like you. There's a reason I'm telling you that. I don't know everything about the WCB, but I certainly know it's not working according to a lot of the workers in my riding and according to the workers in my own constituency office, saying that it needs help. The reason I'm saying that is that I'm glad to be here to listen to your presentation. I didn't come with a pre-issue and I didn't come with pre-written questions. I really wanted to listen and I'm very pleased. I think I'm the only here who really listened and read what you had to say in your speech, and my questions are going to be about that.

Now, I said I liked you, because I'm going to be very blunt. I'd like you to be as brief as possible. Okay?

**Ms Sharon Murdock (Sudbury):** It may be difficult.

**Mrs Haslam:** Yes. I want short, concise answers. First of all, in your presentation, Mr Di Santo, on page 6, you said that you consulted. I was interested in how you consulted on practically everything from the design of the form they use and so on and so forth to the effects of workplace stressors. I understood you to say that the employers were very pleased with that type of consultation.

**Mr Di Santo:** Yes.

**Mrs Haslam:** I wanted to know if it has helped the board in any way because you've increased the consultation with the employers, or has it cut down on the adversarial aspects of that?

**The Chair:** Excuse me. In fairness, we've been very strict all day, and as Mr Mahoney asked a question which will have to be answered in the next round, Ms Haslam, to be fair, you're 31 minutes as well; we will

let your question be answered in the next rotation.

**Mrs Haslam:** Then I would like to be placed first. Does that mean that we then have to go through both opposition parties before you come back here?

**The Chair:** Yes.

**Ms Murdock:** Are we not rotating? They started today, so we start tomorrow with the Conservatives and then so on? Are we not rotating that way?

**The Chair:** No, I think it has to rotate; otherwise somebody's going to miss a turn.

**Mrs Haslam:** Well, I've just missed my turn, so I would like to be very clear here that I'd like to be first on the list.

**The Chair:** You can be first for your caucus.

I thank you all for your attendance this afternoon. This committee stands adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 1658.









## CONTENTS

Monday 13 September 1993

<b>Subcommittee reports</b> .....	A-109, A-127
<b>Intended appointments</b> .....	A-109
Ali M. Omar, City of Gloucester Police Services Board	
David Hobbs, Toronto Area Transit Operating Authority	
Claudia Turner Vsetula, Ontario Board of Parole, western region	
Edward J. Waitzer, Ontario Securities Commission	
<b>Workers' Compensation Board</b> .....	A-128
Brian King, vice-chair, administration	
Odoardo Di Santo, chair	

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- Harrington, Margaret H. (Niagara Falls ND)
- Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Cooper, Mike (Kitchener-Wilmot ND) for Mr Frankford  
Haslam, Karen (Perth ND) for Ms Harrington  
Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Curling  
Owens, Stephen (Scarborough Centre ND) for Mr Mammoliti  
Murdock, Sharon (Sudbury ND) for Mr Mammoliti

### **Also taking part / Autres participants et participantes:**

Tilson, David (Dufferin-Peel PC)

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

CAZON  
X2.1A  
-G52

A-11



A-11

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Intersession, 35th Parliament

## Assemblée législative de l'Ontario

Troisième intersession, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 14 September 1993

# Journal des débats (Hansard)

Mardi 14 septembre 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Workers' Compensation Board

Commission des accidents  
du travail

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Tuesday 14 September 1993

The committee met at 1002 in the Huron Room, Macdonald Block, Toronto.

## WORKERS' COMPENSATION BOARD

**The Chair (Mrs Margaret Marland):** We will continue the agency review of the Workers' Compensation Board, and we're going to continue in 20-minute-per-caucus rounds. Yesterday we did half an hour because we had an hour and a half left. Is it the wish of the committee to do 20-minute rotations? Would you like to start with the third party and do it that way for the rest of the week, in turn?

In fairness, the third-party critic isn't here at the moment. The official opposition party critic isn't here either. Would the government like to start with its 20 minutes? Mrs Haslam, you could finish with the question where you left off yesterday afternoon.

**Mrs Karen Haslam (Perth):** Is there going to be a presentation on the fraud issue here?

**The Chair:** No, I think the suggestion was that we dealt with that subject today, but I would suggest that we're dealing with it by questions and answers, and in their answers they can expand into their presentation if they wish.

I'm looking for some direction from the committee. Mr Mahoney, would you be prepared to start this morning? We were going to start with the third party, but since the critic isn't here, we'll start with you.

Welcome to Mr Di Santo and Mr King again this morning. We're back to 20-minute rotations today. We will start with the official opposition.

**Mr Steven W. Mahoney (Mississauga West):** I believe that yesterday I had finished with a question that you suggested had to be answered today. Is that correct?

**The Chair:** We were out of time. You're more than welcome to start there if you wish.

**Mr Mahoney:** If I recall correctly, my question to Mr Di Santo had to do with the statement in his letter regarding the flooring issue. I'm just looking for it so I have it exactly. It had to do with the statement wherein he said that the Workers' Compensation Board had some special, unique characteristics different from other businesses that had used this flooring. Mr Di Santo, do you recall that statement?

**Mr Odoardo Di Santo:** I didn't have the letter yesterday, but I have the letter in front of me now.

**Mr Mahoney:** Do you have that statement in front of you, sir?

**Mr Di Santo:** The letter of March 9, 1993?

**Mr Mahoney:** Yes, the letter dated March 9. You

make the statement, to quote from your letter, the last page, second-last paragraph: "Also, the Workers' Compensation Board is unlike many of the corporations you have mentioned in that it has different operational requirements." I'm not sure of all of the corporations that Mr Mead mentioned, but they would be corporations like the Royal Bank, the Bank of Canada, the Ontario Provincial Police. What do you mean by this statement, Mr Di Santo?

**Mr Di Santo:** The statement is self-explanatory. The Workers' Compensation Board's new building is a unique building because, among other things, we serve injured workers, we have the largest computer system in North America and we have requirements that perhaps other corporations do not have. It's as simple as that.

**Mr Mahoney:** Could you tell me what they are?

**Mr Di Santo:** Well, I mentioned some of them. I don't understand the point.

**Mr Mahoney:** You're suggesting, as you did during the inquiry into the reasons for building the new building, that the Workers' Compensation Board is unique in the business world, I guess you could say. Here you're suggesting that you are unlike many of the corporations that use the Canadian-made flooring.

**Mr Di Santo:** That's right.

**Mr Mahoney:** I'm just asking you to tell us in what way you are unlike. If you're servicing customers, be they injured workers or bank clients or witnesses, you're using desks, you're using telephones, you're using computers, you're using other technology, you're using photocopiers. Aside from the fact that you service injured workers, because that's simply your client base, what is it that makes the Workers' Compensation Board so unique that would preclude you from buying a Canadian product and going to this American product?

**Ms Sharon Murdock (Sudbury):** It doesn't preclude it.

**Mr Di Santo:** I object to the innuendo that that was the reason for preventing us from buying Canadian product, because that was not at any point a factor in the decision that was made. The decision was made on the basis of a number of factors, and—

**Mr Mahoney:** Excuse me; I'm sorry. I didn't ask you on what basis the decision was made. I asked you to explain the statement in your letter. Did you write this letter, Mr Di Santo?

**Mr Di Santo:** But I won't let you make the innuendo that that was the reason that prevented us from getting a Canadian company—



**Mr Mahoney:** You said it, sir, I didn't.

**Mr Di Santo:** —because that was not the point.

**The Chair:** Let's just have one person speak at a time. When Mr Di Santo—

**Mr Mahoney:** With respect, Madam Chair, if I might—

**The Chair:** Well, if you could do it without interrupting him more than once.

**Mr Mahoney:** Madam Chair, I've asked a question that relates to this. I did not ask a question about the reasons they bought a different product. I am quite prepared to ask that question. I asked him to tell me, in what way is the Workers' Compensation Board so unique or unlike these other corporations? That's all.

1010

**Mr Di Santo:** Well, Madam Chair, I said—

**The Chair:** Excuse me, Mr Di Santo. You have a point of order, Mr Marchese?

**Mr Rosario Marchese (Fort York):** Madam Chair, Mr Mahoney understands the process in terms of how it works with people who come before this committee. Abuse is one of the things that we don't do. If Mr Mahoney feels he's not answering the question, when he's got his turn again he can say, "Please say this instead of" whatever, but he should allow him the courtesy to finish the answer.

**Mr Mahoney:** That's fine. Thank you.

**The Chair:** Please proceed, Mr Di Santo.

**Mr Di Santo:** Thank you, Madam Chair. I want to premise that the choice made by the contractor, by Eastern, was based on a recommendation made by the facilities strategy team of which the Workers' Compensation Board is part. That was based on a number of factors, and I added that also the unique nature of the business we do was part of that decision.

Why is the Workers' Compensation Board different from the OPP, from other corporations? Because we serve every year 100,000 injured workers and we have, as I said before, the largest computer system in North America. Right now, we have incredible problems. If you visit the building, we will show you the ceiling when we have to plug a new line, the inconveniences to our staff and to our clients, ultimately.

We have an imaging system which is very large. In fact, we are a paperless company; all of our files are on imaging. We have a higher than average number of telephone lines because we serve 377,000 injured workers every year. Doesn't that make our institution unique?

**Mr Mahoney:** Thank you. I'd like to ask Mr King if he made the comment that is attributed to him. Madam Chair, let me preface this by saying that I very much would like to get into service delivery. Although this flooring contract causes me great consternation—

**Mrs Haslam:** You're the only one.

**Mr Mahoney:** —I'd like to get into many of the other issues. Well, if it doesn't bother you, that's fine.

**Mrs Haslam:** No, I mean it's not the place.

**Mr Mahoney:** I really have some difficulty with this issue, and I'd like to know if Mr King made the statement that was attributed to him in the Toronto Star. I'll read from the article. It says, "Outside the meeting room King was more succinct: 'Would you rather the floor collapsed?' he told reporters." Did you say that, sir?

**Mr Brian King:** I was met on the way into the meeting room yesterday with a scrum of media who asked me why we had chosen the concrete flooring over the wooden flooring. I indicated that was a decision made by professional engineers and by professional people, that it wasn't my decision to make, as a non-professional, as a non-architect, as a non-engineering person, to choose whether it should be a concrete or wooden floor, and I may very well have said that if I made the decision it may very well have been a floor that collapsed. I have to rely on professional advice on these matters, not on political considerations.

**Mr Mahoney:** What do you mean by that, sir? What political considerations?

**Mr King:** It is reasonably well known in Canada that some decisions made about buildings and tendering aren't based upon the quality of the product but based upon narrow political considerations such as whether the matter goes to certain favoured parties.

**Mr Mahoney:** Are you suggesting my concerns are narrow political concerns?

**Mr King:** I didn't say that at all. I'm sorry if you—

**Mr Mahoney:** What exactly do you mean? I don't understand what you mean by that. What political considerations would possibly enter into the decision on giving a contract out for anything, be it walls, ceilings, flooring? I would certainly assume there would be no political consideration.

**Mr King:** One would certainly hope there would be no political considerations taken into account in any contracting in the public sector. I've read recently about speculation about turning Pearson airport over to the private sector, to a consortium of companies led by former party presidents and members of a political party. Now, whether that's political consideration or good business, I leave for others to decide.

**Mr Mahoney:** Interesting analogy. I don't know what your building or your corporation has to do with that whatsoever. Is it safe to say that this report is accurate, with regard to the floor collapsing? I guess you indicate that it is.

**Mr King:** I made no reference to the type of flooring as represented by ASP flooring as collapsing in Simcoe Place. I said that professionals had given us the

opinion that for our business needs, for the type of office tower that's being constructed, it should be the concrete flooring. We made that decision ahead of the tender being let to the interested subcontractors, the flooring subcontractors. The contractor in question bid on the concrete flooring, and only after it lost that bid in an open and free competition did it start complaining that we had chosen what we tendered for rather than what it wanted us to go out to the market for.

**The Chair:** Excuse me, Mr King. You just interrupted Mr Mahoney.

**Mr King:** I apologize.

**The Chair:** It has to work both ways if it's going to work. I just wanted to point that out.

**Mr Mahoney:** No problem, Madam Chair. I'm a big boy.

**Mr King:** I apologize, Madam Chair.

**Mr Mahoney:** You've again reiterated the statement, sir, that you made yesterday with regard to the fact that this company came in after it lost the bid. That's incorrect, sir, and I believe you know that's incorrect.

If you don't, I think you should check with the people who are building this project, because they very clearly—they went to the extent of taking some of your construction people on a tour of the Royal Bank project which they're currently installing this floor in, prior to the tender being submitted. They attempted to communicate to you, to Mr Di Santo, to the Premier and to the Minister of Labour on an ongoing basis, prior to the tender being opened, that they had a Canadian alternative that not only was acceptable but had a longer warranty than the American alternative, had a 20% greater load capacity than the American alternative.

They tried to communicate all of this. They tried to communicate the fact that the product itself, the American-made access floor system, "has been manufactured for less than half a year and has no proven lifespan." No one would listen to them. The purchase of their floor system would "keep 50...factory workers employed for another year, not to mention the...suppliers" etc. No one would listen to them. The Canadian-made flooring "meets or exceeds all your loading requirements."

You're trying to suggest that they came in afterwards with some sour grapes.

*Interjection.*

**Mr Mahoney:** If the member wants to continue interrupting me, Madam Chair, perhaps you could call her to order.

They attempted to bring all of these issues to your attention and got nowhere. You have almost damaged, by the way—now, we all get taken out of context; maybe that's what you want to say, that you were taken out of context, but you have damaged this company's reputation and this product's reputation, a product, I

reiterate, that is approved by the Ministry of Housing for use in the province of Ontario, that's being used by government agencies.

Doesn't that concern the members opposite? Obviously, it doesn't. But I'm very concerned, Mr King, when I read this this morning, that you would leave some kind of suggestion that this Canadian-made product is inferior and indeed might collapse under the specific, unique, unusual uses required by the Workers' Compensation Board.

I think you owe this company a written clarification or apology, certainly a clarification at the very least, that you were not casting aspersions on their product. This is an Ontario company, which you rely on for your job, sir, I might add, as one of the companies that support the Workers' Compensation Board. They pay \$50,000 a year to the Workers' Compensation Board, Mr Di Santo. I think that's a credible amount for an Ontario small business to pay in support of your organization. To have your officials publicly castigating their product is just totally unacceptable.

I wonder if you might be prepared to offer to Mr Mead, who, if he's not here yet, will be here some time today, some form of clarification or apology with regard to the statement reported in the Star this morning, Mr King.

**Mr King:** I certainly will, in front of this committee and in front of Mr Mead, indicate that I had no critique to make of their particular product. I did indicate that the decision as to what type of flooring would be best for the WCB, would be most efficient, would be most effective, was a professional call, not that of a bureaucrat. You have to rely on those who have been trained in this area, and that is the decision we relied upon as a facilities strategy group.

1020

The media report that indicated that I don't want a floor that falls down had no reference to ASP flooring's product but to the fact that we have got to accept professional advice, not make decisions based upon political considerations but upon professional considerations. If anyone misunderstood, including yourself or ASP, I apologize.

**Mr Mahoney:** Okay. I think it's appropriate that you do apologize, but how you could suggest that it wasn't a reference to ASP flooring—that's what the whole article is about. Obviously your comment that you don't want a floor that would collapse, none of us would want to see that, but obviously you'd be making that comment in reference to the alternative product that was offered to the Workers' Compensation Board. You weren't making it in terms of some imagined product; you were talking about the access flooring provided as an alternative by ASP flooring out of Oakville. That's what the question would be about, and you expressed concerns that could be taken in no way other than to



suggest, "Would you rather the floor collapsed?"

I just want the record to show that this is a first-class product, made in Canada; that this is a product that could have been installed in your building for \$500,000 cheaper than the one you've decided to buy out of Grand Rapids, Michigan; that very clearly this product is installed in millions of square feet of flooring throughout the country, throughout the province of Ontario; that corporations like the Royal Bank, the Bank of Canada and the Ontario Provincial Police have decided to use this flooring.

This is not inferior flooring. They all have similar problems. They have hundreds of thousands of customers, Mr Di Santo, you'd be surprised to know, who go through the bank buildings every year, very similar to the numbers that would go through workers' compensation, plodding and jumping up and down on the floor when they're unhappy, I suppose, at whatever it is they're unhappy about. I fail to understand the uniqueness of your corporation with regard to something like the technical recommendations.

Mr King has made reference to not having a political consideration. I would certainly hope that would be the case. I would not want to see political interference in a decision to award a contract; that's certainly not what this committee is about. This committee is about questioning decisions made that you were part of, I presume. Maybe you can help me with that.

The strategy team, I understand in the letter from Mr Di Santo—a letter that is quite technical, I might add, for someone who is not technically oriented. I'm quite impressed with Mr Di Santo's grasp of the situation, because it is quite technical in giving the reasons and justification to Mr Mead for not using this flooring. But you refer, Mr Di Santo, to members of the facilities strategy team. Does that strategy team include a direct representative, ie, staff or a consultant, for the Workers' Compensation Board?

**Mr Di Santo:** Yes.

**Mr Mahoney:** More than one?

**Mr Di Santo:** More than one.

**Mr Mahoney:** So they would have input into this.

**Mr Di Santo:** Absolutely.

**Mr Mahoney:** Would they come back to you or Mr King for advice on something of this nature?

**Mr Di Santo:** No.

**Mr Mahoney:** Mr King, would they come to you?

**Mr King:** The facilities strategy team did not come back to Mr Di Santo or myself with respect to the professional recommendation of engineers and architects as to what floor we should have.

**Mr Mahoney:** Are you aware, Mr King—

**The Chair:** Time.

**Mr Mahoney:** Sorry. Am I out of time?

**The Chair:** You are this time.

**Mrs Haslam:** There is a God.

**Mrs Elizabeth Witmer (Waterloo North):** Madam Chair, are we focusing on fraud this morning?

*Interjections.*

**Mr Mahoney:** Madam Chair, I thought it was open.

**The Chair:** It is open.

**Mrs Witmer:** Okay, I will focus my attention on that area initially, because I think there is some information that I would like to receive from you, Mr King. You did instigate and set up a comprehensive fraud strategy about a year ago, and you've obviously been very busy since then investigating some of the fraudulent happenings that have been occurring in this province. There's been a suggestion that because of what's happening in the United States, there are organized gangs that are moving into the border cities to capitalize on our compensation system. Could you give me a little more information about what exactly is happening with those gangs?

**Mr King:** I will be as forthcoming as I possibly can with the committee, recognizing that some of these matters are under criminal investigation at the present time. Insurance fraud in the United States has proven to be a rather large business of recent years, and some of the states have been particularly vigilant in cracking down upon the insurance fraud, on the organized groups that have been pursuing the assets of insurance companies, like workers' compensation boards, especially on the west coast of the United States, in California and the states of Washington and Oregon, and it has been reported through criminal intelligence bodies in Canada that some of those people who have been squeezed out of the operations in the United States have moved or are moving north of the border.

Basically, some of the types of operations they get involved in are to set up dummy companies, which are basically paper shells, to then file claims for employees who exist only on paper, and have a medical practitioner wrapped into the loop so that all three requirements for a workers' compensation claim would be met by what is basically a paper or a shell company; that is, an employer would report an injury, a worker would presumably report and a medical practitioner would report all at the same time.

In an organization like the WCB where you have around 400,000 claims a year, to put too many screens or too many blocks in front of the acceptance of a claim would lead to incredible delays. Therefore, we have relied traditionally on these three safety valves or safeguards: the employer report, the worker report and the doctor's or the medical practitioner's report. If all three of those reports are bogus or are somehow faked or not properly put together, we are vulnerable to an attack by a fraudulent exercise. That's the sort of thing



I was referring to when I reported that very organized attacks on the assets of the WCB were being imported into Canada.

**Mrs Witmer:** Have you communicated with the states that have been vigilant to determine how you might counteract this?

**Mr King:** I was in Baltimore, Maryland, about two weeks ago at a meeting of the American state compensation funds, where I spent particular attention in dealing with those states that have developed a fraud strategy to see whether ours was of equal scrutiny. I am planning on going, if these hearings end, to Portland later this month for another meeting of American states. One of the key issues in that meeting is on fraud and fraud awareness and fraud prevention. We're very aware of the need for partnership with those who have already met the fraud situation and who have experience in it.

I would point out, in addition, that I indicated yesterday that we have made approaches to the RCMP, to the OPP, to the Metro police forces and the regional police forces. The director of my special investigation branch was in this morning at 7, on the way to Niagara to meet with the Niagara Regional Police Force. We have partnered or developed networks with the UIC, the Ministry of Community and Social Services and the Health ministry so that parties are aware of common concerns and common problems and will call each other if there is the need to know what's going on.

1030

**Mrs Witmer:** I was going to ask you that question. That's obviously very important, as we're seeing fraud in many of those other areas as well and it's probably some of the same people who are responsible for the fraudulent claims.

There are of course the two types of fraud, the internal and the external. What methods are you using to detect the internal fraud, and is it greater than the external fraud?

**Mr King:** I was badly misquoted, and for that I feel guilty, in terms of the 5,000 employees of the Ontario Workers' Compensation Board. In response to a question at a news conference, I indicated that the greatest potential for large-scale fraud resided in someone who had access to the internal computer systems because one individual can direct programs to create numerous payments, whereas those who are outside the board have a more limited ability to attack the assets of the board. This came out in the media as, "The biggest problem with fraud is internal." No, the biggest potential problem and where you have to be most concerned is over the security of your systems.

Your specific question was what we're doing internally to deal with the problem. The first step is human resources in the recruiting, to make sure the people we recruit are the sorts of people we wish to have working

at the Workers' Compensation Board; that they not come, for instance, on the basis of a political suggestion from a minister, as may have happened in the past, but they come based upon their merit and ability to do the job for us.

The second is that we have routine monitoring, on a spot basis, of files that people are handling through internal audit processes. It's called an audit universe, where every area where you are at risk in an organization like the WCB is subject to a random audit at any point in time, so that people never know when they're apt to have an auditor come in and look over what they're doing.

The third area is a systems concern, that is, are our computer systems using passwords so that only those people who are properly authorized to get in and deal with a system go in and deal with it. We have beefed up very considerably our passwords and our computer security systems.

**Mrs Witmer:** I was interested in one of your comments. You indicated that some individuals had been appointed or received jobs and that they were political recommendations.

**Mr James J. Bradley (St Catharines):** That doesn't happen now, of course, with this government at all.

**Mrs Witmer:** I'd just be interested. Has this been a problem that has created some fraudulent situations, Mr King?

**Mr Bradley:** How did Mr King get his job?

**Mr Mahoney:** Or Mr Di Santo.

**Mr King:** I can only respond for the past two and a half years, that the hiring at the Workers' Compensation Board has been on the basis of merit and ability and the promotions at the Workers' Compensation Board have been on the basis of merit and ability. I have 20 years' experience with the Ontario compensation system as an external observer and one who has known the various leaders of the Ontario system for the past 20 years. Anecdotally, various members of those leaders over the years have indicated to me that they have been required to hire certain people, but that's about as far as I could go. I don't know of individuals.

**Mr Bradley:** This government takes no back seat in patronage, I can assure you of that, to any government.

**Mrs Witmer:** I'd like to focus now on another area; this is an area I'd like to receive some more information about. You talked about the suppliers as also being an area where certainly there is a situation and a possibility for abuse. The taxis giving claimants rides to rehabilitation centres: How much of a problem is that with the taxi drivers, and how can that happen?

**Mr King:** The Workers' Compensation Board used to have a series of chits or requisitions that workers would be given to allow them to be pre-authorized to use a taxi if they couldn't take public transit. Someone



who is in a wheelchair, for instance, couldn't necessarily take a subway or a bus.

The dilemma was that the board lacked the controls to assure that those were being properly handed out to injured workers and being properly consolidated when the bill came in. That control weakness arose about 9 or 10 months ago with the arrest of a Toronto taxi driver who had defrauded the Workers' Compensation Board of some \$50,000 for taxi chits that were submitted and for which rides never occurred. That was on the basis of a worker who had been receiving rides and had legitimately been submitting the bills but stopped submitting them at a certain point in time and the cab driver was able to continue submitting them. We have received full repayment of that \$50,000, and the necessary controls have been put in place to prevent that sort of blanket requisition from being given to any supplier like a cab driver.

**Mrs Witmer:** If we take a look at the transportation and we take a look at the mileage claims, there was an article earlier this year that indicated that mileage expenses for the WCB totalled \$19 million in 1992. You've indicated that there's a possibility of fraud as far as the taxi drivers are concerned. What about the individuals who are claiming mileage? What type of audit or check takes place?

**Mr King:** Mileage to workers is authorized if they have to come for a specialized medical treatment that's not available in their home community. For instance, perhaps in Thunder Bay there is not the type of specialist who would be able to treat a neurological condition of some sort that's as a result of a work injury. In order to get a worker recovered quickly, to give them the medical treatment that would allow them to rehabilitate and return to work, we're quite likely to approve them coming to a centre where there is such a specialty and would approve a payment for them to fly into Toronto, for instance. Those are checked against the medical reports that we receive for the service thus rendered.

In addition, people may come into Toronto and receive payment to stay or to be treated at the rehabilitation centre. Amputees are provided with artificial limbs at the rehabilitation centre, and those again are checked against the actual treatment that is given.

Finally, workers can be authorized mileage or travel expenses if they're attending a training course that will result in them getting the skills to return to work. If you live in Timmins and there is a course available to you in North Bay that will allow you to get the education or the skills to go back to work, you may be authorized mileage to attend that training course. These are checked by health care adjudicators on the basis of existing rules.

1040

I will add that that is one of the areas covered by the comprehensive fraud strategy I spoke of, the assurance

that such rules and procedures provide minimum loopholes for abuse.

**Mrs Witmer:** I personally believe that in the area of mileage and a personal automobile there's a tremendous potential for fraud. I don't care whether it's WCB or any other organization: The potential exists, and we know it happens. I was personally involved at one time in checking mileage, for five years, and I certainly came across it. I would hope you would be vigilant.

You've indicated as well that perhaps there's some medical fraud in terms of the doctors and the people involved in the rehabilitation. What's happening there, and what methods are being used to counteract that?

**Mr King:** Again, I repeat my opening statement that I must be somewhat discreet because of a very intensive ongoing investigation. We have 170,000 pensioners who are receiving disability pensions from the Workers' Compensation Board who may require ongoing medical and drugs for their condition. We have in addition, at any one point in time, 70,000 temporarily disabled workers who all may be receiving medical treatment and/or drugs. The potential, given those quarter of a million Ontarians who are receiving medical and drugs, for overbilling or for billing for services not received is rather significant.

We do have an ability to profile suppliers through our computer programs to show average billings. In cases where norms are not met or the norms are exceeded, some work may have to be done to determine whether that is just a popular supplier or whether in fact it's something that requires greater investigation.

We have presently a partnership with the Ontario Provincial Police and with the Metro police forces to look into certain situations regarding supplier and health care supplier benefits. They're right in the midst of a very intensive ongoing investigation, and I hesitate to go much further in that particular area, but I'd be pleased try and help you on other questions.

**Mrs Witmer:** Mr King, I appreciate the efforts you have certainly put forward to investigate fraud, but it's been suggested by the critics that fraud totals somewhere in the neighbourhood of \$500 million. You've indicated that you believe it's closer to \$150 million. Do you still hold by that figure? You've had a chance to look at it more thoroughly.

**Mr King:** The numbers you quote are always as a result of a speculative story in the Financial Post that indicated up to \$500 million of fraud in the workers' compensation system. The best I can gather in speaking to the source of that report and in picking up on where it might have come from was that there was a brief report that indicated the potential for about 17% fraud on one study of welfare payments.

I had responded by indicating that the professional forensic auditors I have talked to from two Toronto



forensic auditing firms would estimate the fraud potential in the WCB to be closer to 5% rather than 17%. I had taken the gross figure of \$3 billion of benefits and extrapolated out that a professional estimate would be closer to \$150 million rather than the speculative figure of \$500 million. If I were to estimate what I would call criminal fraud, I would estimate closer to the forensic auditing, the professionals' estimate, which would be closer to \$150 million.

If people want to define fraud as someone who goes fishing while receiving benefits, then perhaps the speculative figure of \$500 million may be closer. That is a problem with claims management. That is a problem with people's perceptions about what you can and cannot do while you're claiming total benefits.

But in short, \$150 million would be closer to the figure.

**Mrs Witmer:** How does that percentage compare to the other provinces? You've had experience in Manitoba. Is that similar?

**Mr King:** Ontario is doing more right now than any of the other 11 jurisdictions in Canada to deal with the fraud problem. We have been in touch with all of the Canadian boards to discuss this with them. I believe it fair to say that there are three provinces with the largest potential, because of the populations and because of their closeness to large urban populations in the United States, and that would be British Columbia, Quebec and Ontario.

In contacting those boards, we would put ourselves well ahead. They don't consider the problem to be nearly as serious in their jurisdictions; that could be reality or that could be wishful thinking. All I'm indicating to you is that we have put in place the resources to do proper investigations and to deal with it in Ontario, and we consider it to be a problem in Ontario that we have to deal with.

**Mrs Haslam:** I have some questions on this topic. Mr Di Santo, I'm going to pass on your answer, and I still like you. I will have an opportunity to ask that another day, I think, and I'll leave that for the time.

In your opening statement, Mr King, I was very interested in what you said about the cost to industry of \$2 billion a year, that private Canadian industry has a fraud problem of \$2 billion a year. Ms Witmer mentioned a little about it and you followed up on that. What I have to ask about it, though, is this: We are also prepared to cooperate with the private insurance industry in mutual efforts to reduce fraud where we are legally able to do so. I wondered how you were working with the private insurance industry to do that, if you could elaborate a bit on that last statement.

**Mr King:** There may be situations where there is double insuring, where workers or employers or suppliers or others, in addition to workers' compensation

protection in case of injury, may have private insurance coverage for injury. What I intended to indicate by my comments was that where freedom of information rules allow us to do so, if people may be collecting from both ourselves and a private insurer, we would do what we could to try to prevent that from happening. That was the basis for that comment. Where we come across evidence on our files that there is double collection on the part of anyone, we would try to determine whether it is an area we can deal with or investigate.

The other thing I think I may have mentioned is that, as someone who has been interested in the Canadian social security system, the incoherence of the federal-provincial planning in the area of social security I think is something that has to be looked at.

We have a Canada pension plan that has a disability aspect to it. We have an unemployment insurance system that has a disability aspect to it. We have a workers' compensation system, which is provincial, which is for disability. We have the Ministry of Community and Social Services which looks to those who may have a problem because of disability. We have disabled veterans' programs which look to people who may have disability. We have automobile insurance programs that try to move in where people may suffer an injury and there is a disability.

I think somebody has to take a lead in saying, how are we going to bring all of these programs together and rationalize them? Quite frankly, right now I can't get Canada pension, for instance, to share anything with us. They may be making payments I know nothing about to the worker we are also trying to pay. I think we're past the day when we can have such a mixture of systems without some rationale and coherence to them, and that will require federal-provincial cooperation.

**Mrs Haslam:** Am I to understand that there might be cases where they are collecting from one of those other people you mentioned plus WCB benefits?

1050

**Mr King:** There are situations where people could be collecting from the Canada pension plan disability for the same injury they're collecting from workers' compensation for, and because we are not authorized to use things like social insurance numbers there's no common identifier. The federal government will say, "We're a first-payer and we don't care what the provinces do." We simply cannot, in an efficient way, determine who should be making what payments and what offsets there should be. It does cause a significant problem for every compensation board in Canada.

**Mrs Haslam:** I'd like to take that a little further and look at something in the Ministry of Health called northern travel grants. You were talking, when Ms Witmer questioned you, on mileage and coming to a specialist, let's say, in Toronto from the north. Under the Ministry of Health northern travel grants, there is an



application process where a person can have their mileage, I believe, paid through the northern travel grant. Is it a possibility that they then would double that by applying through your operation for the same mileage? Is there anything you have in place for that particular aspect of fraud?

**Mr King:** I will profess total ignorance of the northern travel allowance. I make an undertaking to you that I will alert our special investigations branch to network with that particular program, to make sure we have in place the controls necessary to make sure people get paid, if they're deserving of a payment, but not get double-paid.

**Mrs Haslam:** I have a couple of questions. Ms Witmer was mentioning doctors. I've had cases where some doctors won't do WCB cases and therefore it's difficult to obtain the necessary medical practitioner if you go in and say, "This is a workers' compensation claim." That results sometimes in the doctors who will do it having most of the cases. You're saying you're looking at those patterns. I'm only mentioning that as one aspect of that pattern, because I know of cases where some doctors do it because they're the only ones in town that will do it.

The other problem I see with doctors is that in some cases their diagnosis is not accepted. I have a claimant come in and say, "I have my doctor's diagnosis here and now they want me to go to Toronto to have three more doctors look at me for the same situation." That's an additional cost to OHIP for additional trips to doctors in many cases. Why is that the case?

**Mr King:** I want to leave no misimpression with these committee members or with the public of Ontario that we would question doctors who are popular or who have a large practice. That is not the sort of situation I was referring to. I was referring to revolving door situations where just the sheer numbers that are being billed to us, the mechanics of getting that many workers through and talking to them all and doing a report on them all, defies imaginative planning. The numbers don't add up to the time available. I want to make very clear that I'm not questioning the medical profession.

Secondly, I think you've asked, why would we question a diagnosis of a family physician? We're a program that many times has pressures from two directions. One direction is the worker and the worker's physician saying that their diagnosis is this and they should be allowed to do that type of treatment.

That may not meet the demands of the employer on an appeal, for instance, who says, "I have a job in terms of light duties or in terms of alternative employment or accommodation." Sometimes, to break the deadlock or to break the adversarial situation, to referee as the legislation itself suggests we should do in terms of the non-economic loss award, where there is a medical referee allowed, where there is a dispute over the

medical diagnosis or prognosis, we would call for a refereed situation.

I don't believe it's that widespread, but I won't deny that you have cases where workers are coming in.

**Mrs Haslam:** Talking about fraud, I know you have increased the number of people in a unit who are working on fraud. We hear about fraud cases, yet the charges have been few. Are there some explanations, or are there some projections of charges being laid? Are there some time lines you're looking at? I know we take up a lot of your time here at the Legislature, but more along the lines of whether you have projections or whether you have any idea of how this new fraud section will help in the laying of charges and in the stopping of the fraud that may or may not be present.

**Mr King:** The number of charges to be laid ultimately is going to be an agreement between police forces which we bring the material to and the crown prosecutors who are the ones ultimately to make the call. I could go through statistics. I'm not too sure that's as important as to indicate to you that we have something like 430 files under active investigation at the present time. If the norm holds true in past patterns, approximately 10% of those would be coming forward with sufficient evidence to lay charges. But that may just be the surface, because there are 822 that are presently being looked at to see if they fit the qualifications for a fraud investigation, and more keeping coming in every day.

My best advice to you is that we are going to see significantly more charges laid in the third quarter of 1993, and in the fourth quarter of 1993 we will see even more charges laid, and I would predict that by the first quarter of 1994, there may be a rather huge number of charges laid.

**Mrs Haslam:** Just before I yield, when you talk about charges, you're talking about the four areas you mention. I don't want to leave the impression that it's only so many cases against workers. There are various charges, and you named four areas: suppliers, employers, employees, and internal employees and workers. Out of those cases, it would be a variety of cases?

**Mr King:** Yes. There have been charges laid against all four of the categories you have just outlined, and there will be future charges laid against all four categories you have just outlined.

**Mrs Haslam:** Okay, I'll stop there. I know my colleagues have questions.

**Ms Jenny Carter (Peterborough):** I'm glad we just reminded ourselves at this point that there are the four different directions from which fraud can come, because I think there's a bit of a tendency to see it all as being with the claimants, when in fact there are these other kinds of fraud.

I want to come at this from a slightly different angle. I've been told by somebody back in my riding who deals with the board that adjudicators have forgotten that their purpose is to serve injured workers and that they make them jump through hoops. What this means is that a lot of claims are turned down and end up going to appeals, and I understand that 75% of these appeals are won. In other words, a lot of genuine claimants are being turned down, and the fact that they then go on to appeals obviously means that more public money is being spent, because it's a long-drawn-out process—I understand it takes about six months—and meanwhile a lot of innocent people may have their lives ruined, lose their houses, whatever.

I'm wondering whether, just to tighten up the system, because we say, "Oh, well, it was fraud, so we've got to make it even more difficult for claimants to succeed," that might not be counterproductive both from the aspect of justice to workers and financially. I wonder if you could comment on that.

1100

**Mr Di Santo:** If we had a different system of insurance, we could probably have a different adjudication system and we could accept all the claims, because if there is a disability and that disability results in a loss of income, then the worker is compensated regardless of the cause or the reasons the disability happened and the loss of income resulted. But we have a Workers' Compensation Act that we have to implement, and the Workers' Compensation Act—

**Mr Mahoney:** You're out of water.

*Interjections.*

**Mrs Haslam:** She was afraid you were full of saliva and ready to go for 20 minutes, right?

**Mr Di Santo:** We have a Workers' Compensation Act we have to abide by, and we are required to make judgement calls every day. Last year we had 377,000 accidents, and the majority of those accidents were dealt with in a very swift way and compensated.

What you're referring to are cases that are not easy to deal with because there are complications. For instance, to give you an example, the causation is not very clear, so we have to see if we can adjudicate and at the same time respect the law, because we cannot just accept any claim.

In many cases, the adjudicators make mistakes, because they are human, and in many cases they are forced to make decisions based on incomplete evidence, not because they want to make a decision without evidence but because in some instances the evidence is not readily available. In some circumstances the evidence is not forwarded by the parties interested in the adjudication. The result is that they do make mistakes and therefore an appeal results.

The appeal I think is a safeguard not only for the

worker but also for the employer; in fact, the employers in Ontario can appeal claims as the workers do. But as I said before, out of 370,000 accidents, only 3.7% are denied, for many reasons. I'm not saying that we are right; as I said before, and I restate, it's possible that some of those decisions are wrong. Why they are wrong, there is a variety of reasons, as I told you.

What are we doing as administration and as a board of directors? Let's not forget that the policies are developed not by Brian King and myself but by the board of directors, and four of the board members out of eight represent the workers, so they have a vested interest that justice is done to the workers, who deserve justice.

When we came to the board, we looked at the situation and we noticed, as Brian King told you yesterday, that we had a large pool of our workers who were adjudicator assistants who were unable to make decisions, for many reasons. One of the reasons was that they didn't have proper training and their classification didn't allow them to have a relevant role in the decision-making process. So we reorganized the adjudication branch. Not only that, but we did something very fundamental: We asked our adjudicators to be trained on a permanent basis.

Mr King told you yesterday how many resources we are devoting to training our staff, because if they are not knowledgeable they will most likely make more mistakes and therefore wrong decisions will result. So we are training, and we made the commitment last year with the board of directors; we are developing the plan for 1994, and training is a central feature of the job of the adjudicators.

Another important aspect I want to tell you is that when we came before the standing committee on resources development in 1991, one of the objections we were faced with was exactly what you said at the outset in your remarks, that the adjudicators are playing games with injured workers. I think we must understand that adjudicators are human beings like all of us. They are doing a job, a very delicate job, and I think we all understand that they're not there to play games.

But when you have 150 or 160 files, perhaps you cannot devote all the time that you want to one claim, and sometimes because of the pressure of the job you can be brash or not be as polite as you want. But we have put an incredible emphasis on that, and we told all our workers—this was the first letter we sent the staff—that you have to treat injured workers with respect, because they come to us at the most difficult time in their lives. We have to respect them if we want to be respected, you have to treat them with humanity, and I think that's happening.

**Mr Mahoney:** Just to show that I'm not totally one-dimensional, I'm going to leave the—



*Interjection.*

**Mr Mahoney:** Well, I'm going to come back to it.

**Mr Bradley:** I do hope so.

**Mr Mahoney:** You can rest assured, because I have a number of other questions and concerns about the tendering process on the new building, but I want to address some of the other areas, particularly around service delivery.

We heard yesterday, in both the presentation by Mr Di Santo and by Mr King—I would say that you left the impression that there's a high level of satisfaction both with the staff and the relationship that Mr King has developed with the staff, with many of the memos and the suggestion box concept that you've been working on with your staff. You certainly seemed to believe that there's a high level of satisfaction and teamwork and camaraderie.

I don't know if you'd be surprised to know, but I would think that in the majority of MPPs' constituency offices, certainly in mine and I know many of my colleagues', the number one issue is dissatisfaction with workers' compensation, whether it be from the point of view of the injured worker or the employer.

I'm sure you're familiar with the Employers' WCB Crisis Committee, made up of some 200 corporations. In my riding, they would include—well, in everyone's riding there's Brewers Retail, but there's also Metroland Printing, Rockett Lumber, Kaneff group of companies, some very substantial companies within Mississauga. They've joined this crisis committee in an attempt to suggest reforms for workers' compensation.

One of the areas they've suggested could do with reform is in the area of the integrated service units. They have suggested tendering out three of the 12 units that are set up around the province to the private insurance sector, to allow them to compete, in essence. Rather than simply dealing with the suggestion made by the critic for the third party and others that workers' compensation simply be privatized, you have to look at what you do with that \$11-billion unfunded liability if you're going to throw out into simply the private sector. I accept that that's a very real problem, because the answer to that is that you transfer it to the government—that's probably the only answer—which means the taxpayers get hit again.

The issue, though, that both the crisis committee and I have thought might make some sense would be to open up the coverage of workers' compensation to the private sector, to compete with the Workers' Compensation Board. You would be one of several insurance companies. I, as a small business person, would contact my insurance broker and say: "I've got 100 employees. I need workers' compensation coverage, insurance protection for my workers, and for my business, because I need to make sure that while they're off, they're being

covered while I replace them with another wage." So it benefits all parties.

1110

I'm thinking in terms of the Zurichs, the Dominions of Canada, the large insurance companies which would then put together a package. My broker would go to market, as it's called, and would come back with five quotes and say, "Mr Business Person, Madam Business Person, here are the quotes for workers' compensation, here are the quotes for your fleet, for your auto, here are the quotes for your liability, your fire protection," whatever it might be. Then the Workers' Compensation Board would be one of those five companies perhaps being quoted to the business by the insurance broker.

Certainly the insurance brokers of Ontario would be delighted. It would give them a new product with which to service the customers they're already servicing with fleet and other types of insurance. I suspect, depending on the cost rate, that the insurance companies would be interested in providing such a service, and this would then force your corporation, your agency, to be competitive with the private sector. How do you feel about that? Either one.

**Mr King:** I'll give you a brief response. The model you suggest is a prevalent model south of the 49th parallel in the United States, where about one quarter of the states have a state fund, which presumably would be the compensation board, and the private insurance companies compete against that state fund. Other states in the United States have a totally free-market approach, with the private insurance industry being the only underwriter for coverage.

One of the things you will find if you attend the conferences of the state governments in the United States—well, two things really. First, the little employer gets hosed every time because the bigger employers can walk into the marketplace with some clout and get the insurance companies to come in and write them very competitive policies. That tends to shut the little employers out and make them less competitive than the bigger employers because they can't go out and get those sorts of compensation coverages from the private industry.

The other is that that model is presently in crisis down in the United States. There have been bankruptcies of several large—

**Mr Mahoney:** Excuse me. Which model?

**Mr King:** The private market model of insuring through the private sector, through competitive insurance company bids.

There are several very large insurance underwriters in the workers' compensation field that have declared bankruptcy under Chapter 13 in the United States because they simply haven't been able to adapt to the squeeze of the increased cost spiral versus the demands

for competitiveness.

Those two cautions I give to you on the privatization model. I would urge people to look very closely at where it presently exists before they jump to the conclusion. You make a strong argument, and I don't necessarily reject it out of hand, by the way. Mr Di Santo—

**Mr Mahoney:** Could I just clarify before Mr Di Santo? I'm not talking about total privatization. I'm talking about you guys staying in business, but you would be a government agency competing in the private sector.

**Mr King:** I didn't want to take up too much time, but that is the model in about a quarter of the US states. What happens is that the state ends up having to insure all of the bad risks that the private industry won't come in and cover.

**Mr Mahoney:** It becomes like the Facility Association under auto insurance.

**Mr King:** Every house that has oily rags in the basement ends up being insured by the government. Their premium ends up being incredibly high because of the bad risk. Unless there is some very sophisticated pooling arrangement requiring the private sector to come in and take part of that bad risk, that model is very shaky.

**Mr Mahoney:** Do you want to add to that?

**Mr Di Santo:** No, it's okay, go ahead.

**Mr Mahoney:** The concern, of course, notwithstanding what I will accept as your good intentions in yesterday's reports by both of you, is that the message out there on the ground is very, very different from the message you give to us. The only thing that even comes close to workers' compensation is SCOE problems, support and custody, in terms of workload for a constituency assistant in a local constituency or a community office. Those two, certainly in my experience, rank one and two, and everything else pales by comparison. It depends on the issue of the day.

Those would include issues where a young boy working at a summer job to get money to go to university steps off the back of a truck into a pothole and almost breaks—it would have been better if he broke his ankle, but he simply sprains it and winds up getting one week's compensable wages from workers' compensation because he didn't dot an i or cross a t. The process of going through to an appeal is so outrageous, and in the meantime he winds up losing over \$1,200 of wages because he can't work.

In that particular instance, the employer was prepared to offer to keep the individual on at 70% wage rather than go through the horrendous experience that the employer would experience in having you people come back in, now that he would file a claim. The individual injured decided: "No, I'll get 90% through workers'

comp. That's what it's there for. It's insurance. It's protection. I trust them." So he turns down the employer's offer, winds up losing a substantial amount of money he needed to go to university, and then the employer winds up getting reassessed because of one week's compensable wages and because it's an incident.

People are afraid of you in the business community; they really are. They want to avoid you coming in. You're worse than income tax. They want to avoid you coming in at all costs. I would suggest that some of the statistics you gave yesterday that show that the number of claims is down, that you're seeing, I believe you said—what was the reduction in your overall budget? I recall a figure of \$400 million or something; it wouldn't be that high.

**Mr King:** Administrative?

**Mr Mahoney:** No, in claims. What was the reduction in claims?

**Mr King:** About 400,000 down to 377,000 over a one-year period.

**Mr Mahoney:** So you're seeing a reduction. If I could be, as you might expect, rather straightforward in this, you tend to claim that as some sort of administrative victory when in fact I think what's happening is a combination of the recession, the number of people going out of work, the number of people who don't have jobs any more, who would not qualify to apply for workers' compensation because they don't have an employer; and the fact that the underground economy has kicked in, in my experience, in big way.

You might not know much about a riding like the one I represent, but you could appreciate that outside the Metro area, in the GTA, there are a lot of small businesses, an awful lot of 50-and-under employers and small manufacturing concerns, assembly corporations, companies where there may indeed be some possible injuries that would occur from lifting or whatever. These people are going underground on you, Mr King; they don't want to see you. I don't know how you can claim, with due respect, the great success that I saw you and your chairman claiming here yesterday, with that fact being there, or do you dispute that?

**Mr King:** I think we were at pains to point out that even with only 13% of the workers being unhappy with the Workers' Compensation Board—

**Mr Mahoney:** They must all be in my office.

**Mr King:** —versus 17% two years ago, 13% of 400,000 workers is a large number of workers. Similarly, the corresponding figure for employers was that 30% were very unhappy with us two years ago; 19% are very unhappy. I don't think we were claiming victory; we were claiming improvement, but it still leaves a long way to go.

1120

**Mr Mahoney:** The statement, I believe, was made



by Ms Carter about the adjudicators that—I don't want to put words in her mouth, but I think what she said is that she hears from her constituency that people feel that adjudicators have forgotten that their main role is to service injured workers. Is that a fair analysis of what you said? Certainly that's not a partisan problem; that's a problem every MPP faces.

You talk in here of the four major strategic goals of workers' compensation: service excellence, financial soundness, public understanding and responsible administration.

**Service excellence:** You can quote me statistics and percentages all day long. Workers' compensation didn't go to hell in a hand basket in the last two years; I acknowledge that. You've gone to some lengths to stress that this is not, in your view, a partisan issue. There may be a lot of partisan issues within the overall issue, but by and large, in terms of service excellence, I would have to say that in my experience, if there were a government agency that provided less in terms of service excellence, I would be hard pressed to find one. As I said, SCOE is running right up your back, pretty close, but even there it has ways of getting garnishees and things of that nature; through the legislation that's been introduced, there are ways of getting that particular problem solved that seem to be working, albeit with certain frustrations.

Your number one issue here is service excellence. Do you really believe that workers' compensation is delivering that kind of excellence? If not, what can you do, either a major change—I sort of hear the chairman suggesting, and I won't put words in your mouth on this, that some form of universal program might solve the problem, in your view. What is it, if there is not service excellence, that you have to do to deliver it?

**Mr Di Santo:** I want to say that those are two totally unrelated issues. The system you choose has nothing to do with the way you do service. Whether it's universal or this type of insurance that we have now, you can give good or bad service.

What we have told the committee, and I want to repeat it, is that we are not claiming we are giving perfect service, because we are not. What I tried to say yesterday and want to repeat now is that when we came to the board, we had a situation that was chaotic. You have to read what every member of every party said at the standing committee in 1991. From then on, we have tried to sort out the mess, and we have told you exactly what we have been doing. In terms of reorganizing our service, we had a problem with the decision review branch.

Now, if we make generalizations—you can say, "People fear you." We can say the same thing about politicians, about priests, about journalists. I can say people don't like politicians. Does that mean anything? It doesn't help at all. What I'm saying is that between

1989 and 1992 the appeals tripled, and we have been able to solve that problem. Is that service excellence? Now when somebody makes an appeal at decision review, in six weeks we are able to give a decision. Is that acceptable or not? I think that should be the parameter: Is that acceptable or not?

We told you that when we came we had a situation where the adjudicators could not make decisions, for many reasons. One was because of Bill 162. You have to remember that it's not all the fault of "those guys," us, who are not liked, because we are dealing with three acts: the pre-1985 act, Bill 101 and Bill 162. If you have to make a decision, you have to be knowledgeable in the three acts, so it's a very complex operation.

We have been training our staff, we have been rationalizing the service and we have recentralized the decision review branch. I think we are doing, objectively, a better job in rehabilitation, and it's very difficult to do rehabilitation.

When I came, I went to Sudbury. There were case workers who had 120 cases and they had to travel eight hours a day, and you blame them? Of course, it's easy: If I'm not served, it's easy to say I wasn't served properly. But look at the circumstances under which we were operating, and despite that—we are not claiming victory, but I think it's fair to say that the board of directors decided we would have a flat budget and we have been operating with a flat budget. That's probably not excellence, but I think it's a good result, because we have the plan, the board of directors told us this is the plan, and we respected the plan.

I think we are making inroads. We are not saying we are perfect, but we are moving towards a situation that is acceptable. There are injured workers who are dissatisfied, but there are workers like John, whom I mentioned yesterday, who thanks us because he is a double amputee and now he can operate.

**Mr Mahoney:** I would certainly hope that out of the tens of thousands of injured workers you deal with, you'd be able to find a John here or there, or a few of them that would be satisfied.

**Mr Di Santo:** Well—

**Mr Mahoney:** Maybe the problem is that the MPPs only hear from the ones who aren't. We don't often get a call from John to tell us how happy he is with workers' compensation, and I acknowledge that. But to say, as you said, that people don't like politicians, the first thing a politician had better do is recognize that that's the truth—

**Mr Di Santo:** You can say that about everybody.

**Mr Mahoney:** —and let's accept that as the truth. I suggest to you that when people say they're not happy with workers' compensation service delivery, you should accept that as the truth, in the same way that I accept that people aren't fond of my profession even



though they like me.

**Mr Di Santo:** In fact, we have been operating under that assumption, recognizing the shortcomings. Exactly.

**Mrs Witmer:** Unfortunately, I would have to concur with some of the remarks that have just been made by the opposition critic. In speaking to my constituency office today and certainly in speaking to many of my colleagues, I know that much of our time is devoted, on a daily basis, to dealing with WCB problems. In fact, I really question whether or not an MPP should be devoting that much time to that particular issue. In my case, my staff tell me it's at least one third, and sometimes it becomes one half. The only thing that's keeping the percentage down right now is the number of people calling us concerning welfare.

**Mr Bradley:** And SCOE.

**Mrs Witmer:** And SCOE, but at the present time, they tell me that welfare is the big issue in my community of Kitchener-Waterloo.

The two problems they face, as far as the WCB is concerned, are, first, the lack of appropriate and timely communication. Even my staff are becoming frustrated when they call the adjudicator on behalf of the injured worker and can't get through or are told by an answering machine, "We will respond to you within 24 hours," and they're not responding. In fact, I heard of a case this morning where my staff made the call on September 7, today is the 14th, and there's still no response.

That's the type of frustration that injured workers face and that's the reason they call our offices, because they can't get through on the telephone lines. Nobody's telling them what's happening and they feel so terribly frustrated. You have to realize that by the time they call us, they really are at their wits' end.

Then we have other people whose claims have been inappropriately adjudicated. One case this morning that my staff was dealing with went back to 1991; they're still trying to do something with a \$500 overpayment. Now the employee's been injured again, and on the first cheque the individual received they took the \$500 off, which should never have come off. Nobody can get an answer; it is very frustrating. The human resource people at the plant get involved; they can't get an answer and they call us.

There's a problem there and it's a very serious problem. Today, for the first time—I didn't initiate this WCB discussion with my staff, because I leave it up to them; they're competent. Today they said to me: "You know, Mrs Witmer, I don't know what's happening, but we can't even get through any more on the phone line. We can't even get answers from the adjudicators."

So one problem is lack of communication. People just don't know what's going on, nobody's telling them and nobody's getting back to them within the time they promise on the phone message. If you're not going to

get back, don't leave that; don't make the promise. You and I know that people are upset and they want an answer.

1130

The other problem is the time involved in the adjudication and resolving the claim issue, and also in the appeal process, where people are waiting one to two years. It is very frustrating. I don't know if you really have any idea of what our staff go through, but I sometimes wonder why I would want to be a constituency assistant. I'll tell you, because of the frustration in the area of workers' compensation and now welfare and SCOE, they do get dumped on. They are fine people, but they go home at night and they feel pretty frustrated, because they become the individual who's blamed because WCB isn't responding in a timely fashion or communicating well when they do respond to the individual.

I can assure you, it's a serious problem. I can appreciate that you're doing your best; nevertheless, it's a problem that does remain very serious. I would like my staff to get on to another issue, because I don't think they should be devoting that much time to this particular issue.

Last week I met with an employer representative group, and most of them were personnel managers. I met with them to discuss employment equity, but by the end of the afternoon's discussion, when I said to them, "Tell me, what are some of the issues that confront you that I need to know about," do you know what? Every one of the 10 individuals said to me, "The biggest problem we have is workers' compensation." It's very frustrating.

So to both the employer and employee community alike, I know you're doing what you can, but there obviously is much more that needs to be done. These individuals are feeling extremely frustrated, and again it gets back to the communication, the message not going out in a timely fashion, or the type of message that's being communicated, which oftentimes turns out to be erroneous and as a result creates complications. I say that to you in honesty. That's certainly the view that I have from Kitchener-Waterloo.

**Mr Di Santo:** I'll let Brian reply to you, but I want to make just a brief comment. I want to say that I know the frustration you and your staff go through. When I was an MPP, I had a very large case load.

If we came to you and said, "We will fix the system immediately," we would not be truthful, because the system is too complex. There is too much litigation; too many cases are appealed. As long as we have this system, we are going to have administration problems, adjudication problems. But nobody intentionally tries to delay dealing with a claim, or no adjudicator deliberately tries to stop your staff and say, "I will not deal with Ms Witmer's staff." It's not deliberate. It's the circum-



stances. As I said before, when you have a very high volume of files to deal with, then you don't have time probably to do what you'd like to do. I'm not saying that's justifiable, but that's the system.

**Mrs Witmer:** That is the system. I just want to make one other point, because this point has been made by my staff and other people's staff. They really do sense that the individuals they're talking to feel very overworked and spend a lot of time telling the MPPs' staff how busy they are. That's fine, we're all busy, but that's not something they need to be communicating. Obviously, you spend so much time worrying about how busy you are that you're not getting your job done.

Do you not agree, Mr Di Santo, given the fact that the system isn't responding to the needs of the employer or the employee community, that there is a need at this time for a royal commission to take a look at how we can restructure? It needs to be from the bottom up, the top down. We need to do something, because we're not responding to the needs that are out there.

**Mr Di Santo:** I don't know if you were here when I said that we are dealing with three different acts, pre-1985, Bill 101 and Bill 162.

**Mrs Witmer:** Yes, I was here.

**Mr Di Santo:** If you were an adjudicator and you had to deal with three different acts perhaps with the same person, it would be a very difficult job.

I agree with you. It's not a system that can continue based on the present premises. There are a number of people who are there to represent injured workers and employers, because the system is too complex. Ideally, any injured worker should be able to go in front of the Workers' Compensation Appeal Tribunal and make his case or her case, because it's his or her life, but no worker can appear before WCAT and understand the intricacies of the legal system. It's a very complex system.

What we can do—there are two levels here. One level is the administration, and we have been telling you what we are honestly trying to do, with our staff, with streamlining the procedures. One of the big problems at the board, I want to tell you quite frankly, was the letter-writing. I was the chairman of the board, and sometimes I had difficulty reading the letters of some of my neighbours who came to me asking, "What does this mean?" It was not done intentionally to mislead, but the people who were preparing those form letters were trying to put in every possible piece of information, and it resulted in a jargon that was not understandable. One of the action groups has been doing exactly that, to redo all the letters in plain English. We are trying to do whatever is possible at our level.

There is another level, and that's what you're talking about. How do you simplify the system? You know very well that there is a Premier's Council on which

there are people who have very serious responsibility, like the chairman of—

**Mrs Witmer:** I know all the players; I have all the information.

**Mr Di Santo:** Exactly. Those people, the chairman of Stelco, of Canada Trust, of Digital Equipment, of General Motors of Canada, have at heart the destiny of the system, because it affects their operations fundamentally.

**Mr Mahoney:** Is that the one Sid Ryan's on?

**Mr Di Santo:** What I'm saying is that they are dealing now with this issue: Is this system workable, or should we look beyond this? I want to tell you, if you have no consensus out there in our society between workers and employers, the system does not work.

Anecdotally, you can bring your case of your constituency office. I can tell you that last Friday at the Sheraton Hotel, 70 employers were at the seminar with our modified work program. They were enthusiastic. Does that mean we are great?

**Mrs Witmer:** Do you feel that a royal commission on the WCB is necessary at this time if we're going to resolve the systemic problems that the short-term reforms simply can't deal with?

**Mr Bradley:** But Gerald Caplan is busy now.

**Mrs Witmer:** Well, there are no political appointments any more.

**Mr Mahoney:** Audrey will be available shortly.

**Mr Di Santo:** There are and there will be all kinds of people, including past, present and future politicians, I suppose. But I think personally—and this is my personal opinion; it is not shared by everyone yet—that the system needs to be revisited, because we have to decide primarily what we want to do. Do we want a system like the one you mentioned, privatized? Do you want a system like Mr Mahoney mentioned based on a competitive basis?

**Mrs Witmer:** Those are the alternatives we need to look at.

**Mr Di Santo:** Those are options you have to look at. Do you want a universal system, the one that I prefer, for instance?

**Mrs Witmer:** I don't think anybody wants a universal system, except I hear you say that.

**Mr Di Santo:** Except me. Not everyone appreciates it.

**Mrs Witmer:** I'll tell you, that's not the way you're going to resolve the economic difficulties at the WCB; that's not the solution.

1140

**Mr Di Santo:** What I'm trying to say is that there are different options, and some of them are compatible and some are not. Those options have to be revisited, but fundamentally, I think we have to resolve the most

crucial problem, the problem that this is a system—

**Mrs Witmer:** Can you just answer my question? You went all through this yesterday when I asked you the question about the unfunded liability. Do you think we need a royal commission on the WCB?

**Mr Di Santo:** I think I said yes, because we have to revisit all those issues.

**Mrs Witmer:** Okay, that's all I ask.

**Mr Di Santo:** Brian, would you like to—

**Mr Mahoney:** Does Brian agree?

**Mr King:** Being the non-political member of this group, I defer answering that question to my colleague Mr Di Santo. I'll respond to the service excellence question.

I couldn't agree with you more that the WCB of Ontario should be providing service excellence. It is not providing service excellence. It is showing improvement in what it has been doing.

I would ask people to understand that we're trying to change a culture that is 80 years old, which is insular to some extent, which didn't focus on the customer or the client; rather, it focused on the noise that may be surrounding the program. We are seeking the advice of such experienced private sector groups as the Xerox corporation, which has done better than anyone, I think, in Canada to turn things around from a service excellence point of view. I think we will be able to move the culture towards one of serving the customer or client, to service excellence. We are not there yet; one would not pretend we're there yet.

The thing I would ask everyone to keep in mind is to differentiate between service excellence, which is timeliness and correctness of decisions, versus the adversarial program, where people may want more than the system may allow them under law or if we differ in opinion on what fact gives us. That is a difficulty, because often people can't make that distinction with the limited information you have available to you. If someone comes in and says, "They owe me more money," that doesn't necessarily mean a service excellence problem; that may mean a legitimate difference of opinion on rights that exist under law.

**Mrs Witmer:** I'd like to pursue an area that we touched on yesterday. You had suggested that it was time that the large and prosperous sectors of Ontario's economy be placed within the confines of the WCB system; you expressed a concern that 40% of the workforce wasn't covered by the WCB, and of course that includes the very wealthy financial sector. Then you're suggesting a flat-rate payment system. What exactly do you mean by that? I just want some clarification.

**Mr King:** Right now, the workers' compensation assessment or tax on employers is apt to fall under one of about 200-plus categories. If you're in a very high-

risk industry—let me take cutting down trees as an example, where you might be using chainsaws—you may be paying a rate that is 15% of your payroll for workers' compensation protection. If you manage an office of white-collar workers, you may be paying one quarter of 1% or 25 cents per \$100. So there's an incredible difference between the rates that employers pay for workers' compensation protection.

I think it worth the while of thoughtful people to reflect on how Ontario's prosperity comes. Ontario's prosperity doesn't come from my insurance agent coming to sell me insurance; Ontario's prosperity comes when it manufactures goods for export abroad, when it exports its natural resources. What we're doing under our present assessing arrangement is that we're charging the manufacturers, who have to compete and sell things abroad, the highest premiums, or we're charging those who extract resources the highest premiums, and then they have to go out and compete on the international market.

It may be that Ontario should think about whether all business isn't one entity in this province, and that if the manufacturer of widgets is not being supported or is being held back by its compensation rate, maybe you should have one flat rate where you have cross-subsidization between all industry to support those that create the wealth in Ontario.

**Mrs Witmer:** I guess that's part of the NDP ideology and philosophy. As you and I both know, the employer community in this province really is very supportive of the system that is presently in place; it has certainly helped to promote a fairer distribution of the assessment burden. Without this type of rating system, I think employer equity would be compromised. It also has provided a very powerful incentive for firms to take charge of their workers' compensation performance by reducing injuries and encouraging employees to return to work. That just would not be there if we were to have one flat rate for everybody. Where would the incentive be?

**Mr King:** There are incentives that you could build into a flat-rate system in terms of accident prevention. You could also bring in some equity considerations through some sort of experience-rating program of rewards and penalties.

The problem with the present model is that as the price goes up on some of those manufacturing industries, they don't lobby to prevent injuries as much as they lobby to get us to reduce the benefits available to the workers; right now the employer lobby is to reduce benefits from 90% down to 80% of income.

I assure you that the US states, especially in the sunbelt states, are reducing the benefits available under workers' compensation very considerably, and the pressure is now on Canada to harmonize under the free trade agreement to bring ourselves down to the level of



those southern states.

I just ask people to be very thoughtful about this before you come up with positions or declare them ideological. I think this is a question of Canada's competitive position vis-à-vis a very difficult North American market today.

**Mr Mahoney:** You're already shopping in the States. You might as well adopt their rate system.

**The Chair:** Obviously, it is the turn of the government members next, but we do have a little business to get back to from yesterday, which was the wish of the committee in terms of the balance of the week. Yesterday, we said we would revisit that subject this morning, whether or not to do the tour and, if we were to do a tour, when to do it. I'm waiting for the direction of the committee about that subject.

**Mr Mahoney:** First of all, I think the original suggestion was to do the tour on a Thursday. I've said I'm not available that day to do it, and I believe there are others who are not available Wednesday.

With regard to the necessity or the advisability of taking the time out to do the tour, I think it might be nice, but I don't know that it would be terribly useful. While we have Mr King and Mr Di Santo available to committee, I would rather have the opportunity of continuing along the lines of what we've been doing. I think there are a number of areas that have been identified that require explanation, questions and delving into these issues. Frankly, a tour of a facility that they're moving out of anyway—unless they're telling us that they've decided to cancel the building and they're going to stay where they are, but I don't think that's on the agenda—it would seem to me, would not be terribly productive.

If there are issues that either gentleman or other staff with workers' comp who are here want to present to us in relationship to the administration, then I think that would be very appropriate. But to take the time of the committee to go physically to the office that they're closing is not something I would support.

**Mrs Witmer:** I'm neutral at this point; whatever the majority decides.

**Mr Marchese:** I personally find repetition not very productive, but we do it anyway. But to the point that the plan is to move to another building, therefore rendering the visit useless, I would say that visiting the site is important because it gives you a sense of how the whole administration of claims works, and I think that would be very productive for all the members to see. Not that we shouldn't see the site because they might be moving or are moving, but rather, as you see it in this present site you may see it as it would be in the other site, and you can visit again.

I find that very productive. I feel the time we're allocating to the various questions the members have is

more than adequate, and if we avoided repetition it would be more than fully adequate. Those members who can come Wednesday should come, and we should go ahead with that tour.

1150

**Mr Bradley:** I don't think a tour is necessary. This is an old game that governments play when you've got somebody in the hot seat: When you want to get them off the hot seat, you go on a tour of the facility. This has happened in estimates in years gone by, and it's just a government ruse to get the attention and the heat off those who are before the committee.

I don't think it would be productive. If I want to do a tour to the WCB building I will do a tour on my own time, not on committee time.

**Mr Ted Arnott (Wellington):** I've been to the existing building where they presently conduct their administration, and I daresay most of the government members have likely been there already; in three years' time as members they've probably physically visited the building. I would expect that most of the members who may be here substituting or whatever will also actually have experienced that particular building, and it's probably unnecessary to conduct an additional tour.

**Ms Murdock:** This is the third standing committee that I have been on where we have reviewed the Workers' Compensation Board. It's becoming extremely redundant, however, and in all of the three committees not once have any of the committees gone to look at the premises or to see how the process works, where it moves, or how a claim moves through the process.

I must state for the record that I take exception to the comments by Mr Bradley in imputing motives to us, in the sense that Mr Di Santo and Mr King have made themselves available for this entire week, as has their entire executive. In fact, the administration is not at work, they're here in this committee, so they aren't over there on the job. Lord knows how much that's costing the taxpayer. They have never refused to come to any committee and they have been here. I am speaking in their defence because I know they won't say anything, but it is wrong for it to be left on the record unsaid.

I think we should be going over to the board office and seeing how the process works or doesn't work, as the case may be.

**Mr Arnott:** Which of the government members have not been to that building?

**Mr Marchese:** Do you mean actually been into the building, as opposed to having a tour of the building? Is that the distinction you want to make?

**Mr Arnott:** Who have been in the building to see how the administration is done. I'm very surprised.

**The Chair:** Yesterday we passed a motion as to the schedule for the whole week, with the exception of this subject being unresolved, so we need a motion to make

the decision on the question of the balance of the week's schedule, which is the tour for Wednesday afternoon.

**Mr Daniel Waters (Muskoka-Georgian Bay):** I move that we do the tour Wednesday afternoon.

**The Chair:** Any discussion on that motion?

**Mr Mahoney:** I don't know if this is an amendment or if it's contrary, but could I ask that if you're going to do the tour, you do it Thursday?

**Mr Waters:** Fine.

**The Chair:** So the motion is to do a tour of the building on Thursday afternoon. Any discussion on that motion? Oh, just a second. If that motion carries, would you like to move Thursday's subject on the agenda, which was the discussion of the new building, up to Wednesday afternoon?

**Mr Marchese:** It won't be a problem for us.

**The Chair:** All right. The motion is to tour the WCB at 2 Bloor Street on Thursday afternoon. All in favour? Is Mr Winninger subbed in?

**Ms Murdock:** Yes, he is.

**The Chair:** How are you voting?

**Mr Bradley:** I hope against.

**Mr David Winninger (London South):** I'll exercise my independent vote.

**The Chair:** Opposed to that motion?

**Mr Mahoney:** He didn't vote at all.

**The Chair:** Well, Ms Witmer hasn't voted either.

**Mrs Witmer:** As I say, I'm ambivalent on this.

**The Chair:** But if you sit in the chair you have to vote.

**Mr Marchese:** There's no ambivalent vote to this.

**The Chair:** And Mr Winninger, you have to vote.

**Mr Winninger:** I'm voting with the government.

**Interjection:** Surprise.

**Mr Marchese:** Bloc voting on the other side: Is that a surprise?

**The Chair:** So the motion is carried and we will tour the WCB facility on Thursday afternoon. We will adjourn now until 2 o'clock this afternoon, at which time we will start with the government members.

*The committee recessed from 1156 to 1407.*

**The Chair:** In rotation, we were with the government members.

**Ms Murdock:** Before I get into the afternoon's scheduled framework, I would like to just comment on a couple of things that were talked about this morning and ask a question.

I want to thank you, first of all. I know you're here for the whole week and you're helping us instead of being at the board office, so it's appreciated.

As a former constituency assistant—I know that Mr Arnott and I are the only two members of the Legislative Assembly—

*Interjection.*

**Ms Murdock:** You were a constituency assistant as well? Three of us, then.

In the four years that I was a CA I worked for Elie Martel and, as many at the WCB will know, that was one of his pet projects. Over 60% of our case load was on workers' compensation, and I would say that at any given time I had anywhere from 150 to 175 active cases, and of those, 15% to 20% at least were into the appeal process, so we were constantly active in that.

Then when Shelley got elected, I continued in that office and maintained approximately the same kinds of averages. I had claims adjudication, decision review, hearings officer and WCATs, which our office did, and I represented the injured worker at those.

I am now the member for Sudbury, and have been for three years. I admittedly started a brand-new office and had no carryover from the previous member but expected that, like Sudbury East riding and Nickel Belt riding, I would have a high incidence of workers' compensation cases. Initially, we did have. To your credit, with a lot of conversation in between and so on, I actually have only about 22 active cases in my office.

Admittedly, as parliamentary assistant to Labour, I am not allowed to carry hearings and WCATs, so I only go up to the decision review branch level; I can't go beyond that. I don't know what my load would be if I had that, but still and all, my staff started telling me we didn't have all that many WCB problems that weren't resolved very quickly; the 22 are ongoing, but there are a number of others I get that are resolved very quickly. I have found in my office that it has improved, so I wanted you to know that.

I would also like to say that in terms of your action plan and the things you have done in relation to the regional offices—I'm concerned about the province, of course, but we're really concerned about the dealings we have to go with on a daily basis. You have worked very hard, from my understanding of what I'm hearing locally, talking to the staff and so on, but I'm now hearing that it's sliding back. I'm wondering what kinds of ongoing procedures you have in maintaining the dialogue with your front-line workers. If you could talk to me about that, I'd appreciate it. I don't know who would answer that.

**Mr Di Santo:** I think in my introductory remarks, I made the point that we have to look at what level of service is acceptable, given the resources available to us and given also the complexity of the system, which as I said this morning has to do with different pieces of legislation and also with some problems that have been lingering for quite a long time.



For instance, Brian mentioned yesterday the problems we had with payments. When the workers' benefits system was set up, it was set up to issue payments as fast as possible but without control. Now we have been directed by the board of directors to review all the claims, more than 400,000, and that takes an incredible amount of money.

I don't sense that we are falling back into a situation where service is deteriorating—

**Ms Murdock:** Excuse me. I wasn't saying that service was deteriorating. I was talking about the dialogue of the front-line workers in how things could be changed.

**Mr Di Santo:** I'll come to the point. It's not because we are not vigilant or because we have interrupted the approach that I described yesterday with our staff, because we are very serious about that. You will hear the staff themselves talk to you. In fact, we brought with us Rumina DiValentin, on my right, and Nigel Hunte, two staff members who participated in the process of the action plan. They will tell you what type of participation they had and also how we will make that approach a permanent feature within the board.

We just recently had a social contract like any other public agency. As I said yesterday, we have unionized staff and non-unionized staff, so while we were dealing with the union on one side, we had to deal with this *métier* of employees who are not unionized and belong to different groups within the board. I think as an institution we have been very successful in involving them all. Brian mentioned to you how many of them voted on our proposals. We incorporated most of the proposals that were agreed upon consensually with the non-unionized staff.

We intend to keep that dialogue, because I think that is essential. We have been insisting since the beginning that we don't believe in a pyramidal type of organization where the decisions come from the top. We want input from the staff. We will be comparing that in every possible expression of the work we do. Whether that is policy, whether it's adjudication, whether it's implementation of policy, we will be asking the staff to participate.

**Ms Murdock:** Are Nigel and Rumina from the Toronto office?

**Mr Di Santo:** Yes.

**Ms Murdock:** My concern is, how are the regional offices brought into this program of dialogue?

**Mr Di Santo:** When the 16 teams were appointed by the union, they were chosen throughout the province, so you have cases like Sudbury where there was a very high number of participants in the teams.

**Ms Murdock:** There would be. The morale level there was very negative when you got appointed, so they were quite hopeful of change.

**Mr Di Santo:** Very negative, but I think it would be a very positive experience for you if you went to the office now and spoke to our staff; you would find a different situation. Rumina, for instance, is from the Hamilton office. We covered all the regional offices. If you want, your question can probably be answered by them. We can invite them to tell you what their experience has been with the action plan and what that means, not only for them but for the rest of our staff.

**Ms Rumina DiValentin:** Right now I'm the vocational rehabilitation agency analyst, and at the present time I am working out of our head office in Toronto.

If I could just answer your point about the open dialogue, a really good example I could state to you is the action plan; you brought that up earlier. The action plan presented an opportunity for all the staff of the whole board to get involved in open dialogue. It allowed the opportunity for front-line staff, for all levels of management, to get involved in the process of what we should be doing. We had recommendations that came out of the chair's task force report, and I think it was the opportunity for the staff to say, how should we do it, and what should we be doing?

There were 16 action plan teams. Staff were represented from all area offices, regional offices. At the present time, one of the recommendations, the case management model, is on the verge of being implemented in the Hamilton regional office. I think that's a really good example of bringing staff in from other areas and getting them involved in having a say in how future business is to be done at the board.

**Ms Murdock:** Is this being maintained? Are you still on a committee?

**Ms DiValentin:** No. I was on project number 1, and our mandate was to establish the mandate for and hire a chief vocational rehabilitation officer. That has since been completed, as of August 16. My team consisted of eight team members from all different levels of vocational rehabilitation at the board. It's with that team that we set out to look for this leader, who would then provide us with a vision for future voc rehab at WCB.

**Ms Murdock:** Is your experience the same, Nigel?

**Mr Nigel Hunte:** I'm a claims adjudicator from Toronto East integrated services unit at head office.

I have to take a step back. I started working at the board in 1989. In 1989, the staff had no say as to how business was going to be run throughout the WCB. In 1991, Brian and Odoardo came to the board and they set out to get staff more involved in regard to what the board's vision in the future was going to be and how the staff was going to be involved.

In January, I was appointed the coordinator of action plan project number 5, which was to promote cooperative return to work with the office of the employer adviser throughout the re-employment program. We had



staff from regional offices, staff from all levels of client services throughout the board in to human resources, in to vocational rehab, and we set out to meet with the office of the employer adviser but also to meet with our employer groups, the medical associations, the workers' associations and try to develop a program that would assist them in returning injured workers back to work. We've come up with something that they've all said they're interested in.

The action plan process allowed the staff, who have the knowledge of how the business is actually done, to go out with management's backing and develop this kind of consensus among our stakeholders. That is a continuing process; it hasn't stopped. My project was supposed to be over in May; my project is continuing because of the type of involvement the staff have had with the outside stakeholders and the type of influence the staff can have in regard to developing something that can work for the agency.

1420

**Ms Murdock:** I would tend to agree that everybody was gung-ho on getting the changes, particularly after the task force recommendations. Too often we see that things are done as an impetus from that and then, once you think you've at least partially achieved it, everything stops and it doesn't continue. That's what my fear is. I think it should be continuing.

**Mr Hunte:** That hasn't happened. It has been continuing. There are programs or project teams that have stopped because they've come to their conclusion. Whatever they have recommended, or if they have recommended, is being implemented. The ones that are continuing are the ones that all the outside stakeholders still have involvement in.

Yesterday, we were talking about consultation. There's so much consultation now between staff and the outside stakeholders that you can't just stop a process as it goes along any more, and that's what's happening. Even the regional offices have all those, as much input as everyone else.

**Mr King:** I might just add that in terms of the continuity of the process, the board has established a joint committee on productivity and savings. That joint committee has equal membership between the Canadian Union of Public Employees local that is half of our employees and the non-bargaining unit that is half of our employees, and the employer, through two members on that committee, has two management present. That joint committee is going to be working on ways we can become more productive, more responsive to our stakeholders, to our clients. That's one example of where an ongoing process is in place.

**Mr Marchese:** I guess it would be appropriate to ask Mr Hunte or Ms DiValentin about adjudication, because yesterday I asked a question about performance standards to which Mr King spoke. I'm not sure I asked

whether that was part of the performance review. If we have performance standards, which I think are very important in terms of how we monitor the adjudication, the case load, do we then have a performance review of the adjudicators based on that performance standard? Is that the case?

**Mr Hunte:** In regard to our performance standards, yes, we do have performance standards that we all try to achieve. Our adjudication process is so involved: We have to know all the policies inside the act and know the policies that we use to implement our decisions. It's important that we look through the whole file to make sure we're making the correct decisions. All our files are reviewed after we've made a decision to ensure they are the correct decisions. So there are standards we try to maintain.

**Mr Marchese:** I understood that. I'll rephrase it. I'm sure there's performance review of yourselves as adjudicators. What form does that review take?

**Mr Hunte:** It takes the form of review by our technical advisers, our managers. They will go in periodically and take a look at the files we're working on to make sure we are doing what we're supposed to be doing. In regard to priority correspondence, that is, correspondence from your offices or correspondence from doctors or whoever is writing in to the board, there's a monitoring process within each ISU that monitors correspondence to make sure we're answering those within the appropriate time, which was mentioned: 7 to 10 days of the time they're received.

There's an ongoing process, always, to ensure that we're always answering or doing what we're supposed to be doing in the appropriate time frames.

**Mr Marchese:** I'd be interested in your point of view in particular on this, because part of any action plan we put into place should reflect, I would think or hope, the buy-in of adjudicators. Does the action plan reflect the input and participation of the adjudicators?

**Mr Hunte:** I'm from Toronto east, and in Toronto east we are implementing one of the pilot projects for case management model, which is a way of going about doing our business differently. It's been developed by adjudicators, by case workers, by the actual front-line people who are going to be the ones responsible for working on the claims or dealing with injured workers and employers, so there is that buy-in. You can rest assured that everyone who is in that unit is currently working towards getting that pilot project up and running.

**Mr Marchese:** Part of the problem, from my experience as an old adjudicator, having left, and meeting some of them from time to time—

**Ms Murdock:** Former adjudicator, not old.

**Mr Marchese:** Former and old. The complaint they make from time to time is that every time you have a



new administration you get changes, so changes are imposed on adjudicators. They say they don't like them, but unfortunately they have to implement them. That's why I asked about the buy-in and your level of participation in the new kind of direction.

**Mr Hunte:** If you take a look at the old administration, we had a major change in 1990 with Bill 162 and with the introduction of adjudicative assistance. I came to the board in 1989 as an adjudicator, and in 1990 they changed the process and I became an adjudicator assistant, and then in turn was changed back to adjudicator. That was major turmoil.

With this administration currently, what they're trying to do is ensure that if we are changing in any direction, there is the communication between staff, that they know the reason for the change and how we're changing, and the staff is also giving input into what changes should be made.

**Mr Mahoney:** Just before I begin, yesterday Mr Marchese suggested that the chairman and vice-chair invite a number of their experts to attend with regard to the flooring issue. I wonder if those flooring experts are here. Was that suggestion followed up on?

**Mr Di Santo:** If there is any particular point that has to be clarified, we can make people available.

**Mr Mahoney:** Are they available today? The experts are here?

**Mr Di Santo:** Yes.

**Mr Mahoney:** I also have taken the liberty of inviting an expert, Mr Bruce Mead, who is the president of ASP Access Floors, and I'd like the committee to hear from Mr Mead.

**Mr Waters:** No.

**Mr Mahoney:** No? Well, forgive me, Mr Marchese has suggested that we hear from experts on the construction issue. I would assume you'd want to hear from both sides of the issue, would you not?

**Mr Waters:** This whole thing, first off, is not a court case. Secondly, if we had all been granted an opportunity and that had been the game plan, if we could all have witnesses appearing and be calling people from different backgrounds, then that would have been fine. But in midstream, in midday, to come in here and say we all of a sudden want to hear from one individual, I can't support that. The format has been agreed to that we would be asking questions of WCB and those people who work within WCB or represent WCB. That, to me, was the format we agreed on and that's one we should be sticking to.

**Mr Mahoney:** I guess I was misled yesterday. I was under the impression—perhaps Hansard could reveal the truth of this—that Mr Marchese suggested, I think he said, that this issue is not going to go away, to paraphrase your comments, and you suggested that the experts, because both of these gentlemen have testified

they are not experts, be brought in today. I thought that was going to take place.

The president of the company has flown back from a business meeting in Detroit to be here specifically for the purpose of dealing with this issue. I'm not only prepared to hear from Mr Mead; I'm prepared to hear from the experts on the construction team who made the decision on the flooring. It was not my idea. The members opposite are shaking their heads. It was Mr Marchese's idea.

1430

**The Chair:** Let's be very clear about the purview of the committee. It is to review a government agency, namely, the Workers' Compensation Board, and I think within that purview is any matter involving the board whatsoever. Having said that, obviously the request of Mr Mahoney would have to be placed as a motion before the committee. If the committee wishes to entertain that motion, then we can proceed.

**Mr Mahoney:** I am putting that motion. I thought I was following Mr Marchese's request that we bring some experts in on this issue.

**The Chair:** It wasn't a motion by Mr Marchese.

**Mr Mahoney:** It was a suggestion.

**The Chair:** All right. We're using up Mr Mahoney's time in this debate.

**Mr Mahoney:** I don't know why. I'm asking for clarification of the committee. Why are you taking that off my time?

**The Chair:** Well, the clock is ticking.

**Mr Mahoney:** I think that's quite unfair.

**The Chair:** It's three minutes. If you want me to restore the time based on the point you made—

**Mr Mahoney:** I'm asking for clarification on the process of the committee. I was under the impression that there would be experts here from the WCB or Cadillac Fairview or somebody to answer many of the questions that the gentlemen in question were unable to answer yesterday. That's a request on process in this committee, and that should not come off my caucus's time allocation.

**The Chair:** Okay, if you're making a formal request. Mr Marchese.

**Mr Marchese:** Simply to speak to this, what I did say, knowing that Mr Mahoney was going to raise this issue again, it was my suggestion that they bring the people who were directly involved with this case because they would have the expertise to be able to respond to it, and suggested they do that. We didn't order them as a committee to do that, but it was a suggestion that they do that.

Furthermore, the point is that I did not ask that the president of the company come here to offer his expertise, and the problem with doing so is that there's a

direct conflict with this issue to have the president speak to this matter. Perhaps he might speak as an expert in the field, I'm not sure, but certainly having that individual come to speak to a case that pertains to him would be a problem, in my view.

If the member wants to ask a question and the people who were directly involved who have the expertise in this are here, they should answer that question, but to change the direction I think is inappropriate.

**The Chair:** Is there a motion?

**Mr Mahoney:** I would put a motion that the committee hear from any experts from the facilities strategy team, representatives from the developer, Cadillac Fairview, as well as key consultants etc; that the committee hear from any of those experts who might be in attendance and that it also hear from Mr Bruce Mead, president of ASP Access Floors Inc, 1081 South Service Road, Oakville, Ontario.

**Mrs Haslam:** I think the honourable member is beating a case. This isn't an individual case. We're here to look into the issues, that's true, but when we get into hearing this witness and that witness over a contract—it has been very clearly stated by the WCB that it is dealing with a contract and the contractor—is going outside of our mandate and outside of what we're looking at. This isn't a court case. If Mr Mahoney wants to continue to question them and they have the answers to Mr Mahoney's questions, that's what this committee is supposed to be doing.

**Mr Arnott:** I'd just like to say for the record that I'd be very interested in hearing what the witness has to say in terms of technical information. I don't think this is the most important issue facing the Workers' Compensation Board today. I think the unfunded liability issue is probably of more significant proportions. However, since the individual has made an effort to come here and we also have, apparently, the information from the board, the engineering advice it received, I think it would be very helpful to this committee to hear both sides.

**Ms Murdock:** As part of that point, I know this committee didn't advertise for anyone to speak. I'm sure there are thousands of injured workers, or even injured workers' groups, any number of people who would like to come forward. The Employers' Advocacy Council, I'm sure, would love to be here to be a witness in terms of a review of the Workers' Compensation Board as a government agency. I don't think we did that. Correct me if I'm wrong, but we didn't advertise for anyone to come, and I don't think we should be widening the mandate or the forum we had, I thought, agreed to.

**The Chair:** All right. Maybe the clerk could read the motion for us and then we could take the vote.

**Clerk of the Committee (Ms Lynn Mellor):** Mr Mahoney moved that the facility strategy team and Mr

Mead from ASP appear to respond to questions of the committee.

**The Chair:** All in favour? Opposed, if any?

**Mr Bradley:** The government muzzle.

**The Chair:** That motion is lost.

Would you like me to restore all of the time? It's eight minutes.

**Mr Mahoney:** That's your decision, Madam Chair, but I would think that's fair.

**Mr Marchese:** It's a question he raised within his own time.

**The Chair:** In fairness, that was a procedural question, and I will restore the time.

**Mr Mahoney:** Even though Mr Marchese doesn't want me to have that time, I thank you very much for your usual generosity.

Since Mr Mead is used to being turned down by the WCB, and now of course by the NDP government, he's used to wearing a muzzle, as uncomfortable as that is, and is probably not overly shocked at the fact that this committee refused to hear from him; we were quite prepared to hear from the strategy team as well on the issue. As that's not possible and I simply get an "I'm not a technical expert" answer from Mr Di Santo and Mr King, I find it necessary to go through some of the questions I put to these people yesterday with regard to this particular issue.

To the member from the Conservative Party, this may not be in his opinion the most important issue facing workers' compensation, but clearly, as I said yesterday, this is an issue of confidence in the leadership, confidence in the administration, confidence in the entire setup of workers' compensation, which, whether Mr Di Santo believes it or not, is spending public money to build a building and a long-term lease—well you are, sir. It's all public money; that's where it comes from. It comes from the employers and it ultimately comes from the workers and therefore it is public money. You can argue that if you wish, but in any event, this is a question of confidence in the leadership at the top of workers' compensation, and until the people in the province, be they people bidding on contracts, be they injured workers, be they employers who are footing the bill for this agency, until those groups can have some sense of confidence that they're going to be dealt with fairly by all actions in the Workers' Compensation Board, then I think it is indeed one of the most important issues facing this committee and facing the board.

In response to the letter, and I've asked Mr Di Santo to respond and he's indicated that he's not an expert, even though he wrote the letter and signed the letter—this reminds me: Maybe he didn't write the letter and maybe he didn't sign the letter; we've heard that excuse before from this government. But I'm assuming that this is Mr Di Santo's signature on the bottom of page 3 of



this letter of March 9; he now has the letter and I think he would concur that this is his letter that he signed, and therefore he owns and is clearly responsible for it.

There are a number of issues that were raised, and I'd like to deal with some of those. Perhaps in this 20-minute segment there may or may not be time for them to respond, but there will be in the next one, and I assure you I'll be continuing to ask them to do that.

Mr Di Santo says in a letter to Mr Mead: "As you are well aware, the Workers' Compensation Board, as a public agency, must follow fair tendering practices and as such is not in a position to select a product from a supplier outside of the tendering process."

The response to that from the expert in this issue: "With respect to fair tendering practices I would like to display the prices for the access floor system which were received by both Jackson-Lewis and PCL for the as specified cement-filled steel system:"

ASP Access Floors, out of Oakville, \$3,495,900; Camino, two bids, one of \$3,535,000 and the other \$3,560,000, the difference being that one provided hoisting into the building and the other did not; CGC, a bid of \$3.6 million; and Innovative Arch Systems, a bid of \$4.1 million.

1440

As you can see from this, ASP out of Oakville was the low bidder with Jackson-Lewis and PCL, but the contractor on this particular site indicates that Camino was the low bid.

It has been revealed to me that Camino gave a separate bid to Eastern Construction, the contractor on this, separate from the bid they gave to Jackson-Lewis and PCL, for some reason I don't understand. Now, they're private sector; they're not necessarily subject to the rules of fair tendering practices that a government agency would be, but clearly any government agency would be concerned about sort of under-the-table bids that were handed by one company to another and would question why that would happen. It would seem that it was to make PCL and Jackson-Lewis non-competitive and to favour the contractor that was working directly with the WCB.

I'm also told that the bid was within 3%, that ASP was within 3% of this under-the-table bid that was provided to Eastern. The government policy, I've also been made aware, is that the government of Ontario will buy Ontario first and will generally allow a 5% leeway, given that the quality of the products are comparable. They were within the 5% price allowance and yet they were ignored. I guess what Mr Mead is saying to Mr Di Santo is that "the committee neglected to tell you this" and therefore you were given wrong information.

Going on, Mr Di Santo says, "Your request for the Workers' Compensation Board and the developer...to disregard the result of the competitive purchasing

process and select ASP Access Floors is inappropriate and unacceptable."

Let me be clear that the American-made access floor system has only been manufactured for less than half a year and has no proven lifespan and, as Mr Mead goes on to say, "The purchase of the ASP Access Floors system will keep 50 ASP factory workers employed for another year, not to mention the amount of employment for ASP's suppliers." This access floor, it should be clear, according to the expert, "meets or exceeds all your loading requirements"—this is a direct response to Mr Di Santo—"and we have all substantiated test data performed by an independent testing organization to prove this." He goes on to say, "To use an American-made product and pay more money for it is unacceptable and inappropriate."

Mr Di Santo goes on with other comments about ASP. He appreciates them trying to stay in business. It should be clear that what they're trying to do is stay in business in the province of Ontario, and if they're not allowed to do business with their own government, then they, like many other businesses, would have to leave.

Mr Di Santo says he had a meeting with the facilities strategy team representatives from the developer, Cadillac Fairview, as well as key consultants involved in the selection of the floor product and that they've taken considerable time to meet and review each of the concerns he raised. Mr Di Santo said yesterday in testimony that it is clearly the decision of Cadillac Fairview and not the Workers' Compensation Board, yet he's had correspondence and discussions with the strategy team. He's written back a very technically oriented letter in response to the individual, but here in front of this committee he doesn't have that expertise.

He also said that the members of the committee "have confirmed once again that the woodcore access floor is unacceptable and that a concrete-and-metal panel system will best meet the needs of the Workers' Compensation Board."

It should be clear, and this is also Mr Mead saying it, that he "had contacted Mr Gary Dunlop, senior vice-president, construction, Cadillac Fairview, on two occasions and he had advised me that nothing had been brought to his attention with regard to the ASP woodcore access floor system." Even though Mr Di Santo says this strategy team had all kinds of meetings and investigations on this issue, it was not brought to the attention of Mr Gary Dunlop, senior vice-president for construction for the developer.

He went on to say that Mr Dunlop said: "...he would not oppose it. If Workers' Compensation Board wants a woodcore system, he would use the woodcore system. ASP was never contacted, nor were we asked to be involved in this meeting to review" the product specifications.



Let me also make a point. Mr King has said, and it's in Hansard on at least two occasions, that ASP is coming back on this issue after having unsuccessfully lost the right to supply the contract that was bid on. ASP took members of the strategy team two years ago on a tour of their Royal Bank building installation in downtown Toronto to show them the product. At that time, they said they had some concerns about the product. In response, Mr Mead said this was the original installation of the product, and if they wanted to see an updated, state-of-the-art version, they would simply come with him to a site in Markham, Ontario, where they would see the latest design of this access flooring. He was told they did not have time to go to Markham.

I am told that same committee was subsequently flown to Detroit, Michigan, to sit down and meet with the manufacturer in the United States. They didn't have time to go to Markham, but it's clear they had time to go down to the States to sit down and review this American-made product. They rejected any attempt by this gentleman to provide a \$500,000 saving to this project and to provide Canadian-made product.

Let's be clear about that. Two years ago, Mr Mead suggested that this Canadian-made product, at a savings of \$500,000, be used in the construction of this building. It was not subsequent to the tendering process that he participated in—and came within 3% of, I should add: If the WCB lived up to the policy of the Ontario government, he would have won the bid on the flooring that's being put in, manufactured in the United States, as well as the alternative flooring that's manufactured in Canada.

For whatever reason, misinformation was given to Mr Di Santo, passed on to Mr Mead, by the people involved in the strategy team, who seem to have some desire, for some unknown reason—at least currently unknown; we're still investigating this matter—for some unknown reason they wish to use this American-made product.

Mr Di Santo goes on to say that his reasons, this non-technical gentleman writing a technical letter, were: "As you may be aware, the decision to use a concrete and metal panel system was reached following extensive research and evaluation of all access floor systems. A concrete-filled steel panel was selected for the following reasons: better acoustic properties, use of non-combustible materials, constant dimensional stability, ease of field cutting, no dust in cutting process, better load performance."

Mr Mead, the expert, his response to better acoustic properties: "False. This is unproven and there is no test data supporting this statement that has published by either manufacturer. How can any intelligent comparison be made without test data?"

"Use of non-combustible materials: This has no bearing on this job. ASP panel 250 GO (woodcore) has

been approved by the Ministry of Housing (building material evaluation commission) for use in non-combustible buildings. Obviously, the person that provided the above information is not up to date on the access floor industry, as we have been approved for two years. Our panel meets your specification and is ULC tested. The low bid product," by 3%, "has not been ULC tested. Don't tell me," as he says to Mr Di Santo, "your committee missed" that minor little point.

"Constant dimensional stability: All ASP products are manufactured with Ontario-made hardened steel dies that will stamp to exact tolerances. We have an extensive quality control program that entails precise measuring of product prior to final fabrication.

"Ease of field cutting: One of the biggest disadvantages," according to Mr Mead, "of concrete-filled steel panels is field cutting." The exact reason Mr Di Santo gives as a reason for going with the concrete is exactly the opposite of that. "Concrete-filled steel panels must have special saws and some products require diamond-tipped bandsaw blades and even water cutting saws. We would gladly challenge," Mr Mead says, "anyone to cut a hole in the centre of a panel faster than woodcore.

"Once again, you have been ill-advised," Mr Di Santo, "and it only takes common sense," not technical expertise, "to figure out a woodcore panel is much easier to cut than a concrete-filled panel.

#### 1450

"No dust in the cutting process," another one of his technical reasons for turning this down. Mr Mead says: "The statement is ludicrous. How can a concrete-filled steel panel be void of dust when cutting? This is concrete, concrete chips, dust, cracks and falls out of steel panel when cut. This is the exact reason why we do not recommend cement-filled steel panels in computer rooms, as the concrete can fall from the steel panel and get into the air conditioning and cause extensive damage....

"Better load performance: This statement is the most amusing of the above." Mr Mead says: "ASP metal-clad panel will meet or exceed all specified loading requirements as per test data from an independent test laboratory and as per CISCA standard test procedures. A statement like this is insulting, as the system you intend to utilize does not even meet the specified ultimate load requirement of 3,000 pounds. I repeat that this low-bid product does not meet your specifications but will fail at 2,300 pounds."

And that, particularly in light of the statement for which Mr King has, in all fairness, apologized, with regard to the floor cave-in that was reported in the Toronto Star, is most interesting.

A number of the other issues with response to—Mr Dunlop, senior vice-president, construction, Cadillac Fairview, said in a letter to Mr Di Santo, "ASP Access



Floors Ltd's unsolicited alternative price submission for woodcore access floor needs no reply."

ASP's response is, "True, with the saving of one half million dollars there should be no reply and the alternate system that meets the Workers' Compensation Board loading requirement be accepted. Please note that two of the tendering contractors asked for a woodcore alternate price" at the same time as they prepared the tender on the specified product. That's very, very important. Two of the contractors asked for this as an alternative because they too knew that this was substantially cheaper and just as acceptable as the product that comes from the United States. In fact, Mr Mead says, "In several conversations with Gary Dunlop, he had told me it was up to"—very important—"it was up to the WCB and that he had no problems with our metal-clad access floor system."

This would clearly fly in the face of testimony yesterday by Mr Di Santo, who said it was up to Cadillac Fairview and the construction team. The vice-president of Cadillac Fairview in charge of construction is saying it's up to the WCB. I don't know who it's up to, but obviously there's been a serious mistake here.

Mr Di Santo goes on to say, "I reiterate that the process from evaluation, selection, tendering and award was fair to all parties." Claire Lavoie, senior associate, Rice Brydone Ltd, says, "The Access Floors study was comprised of three phases." This is very important too. Phase 4 was a very important phase, and the addendum that was put out that approved the product that was ultimately selected approved a product that was not approved in the original evaluation sessions, the three sessions that were referred to.

The product was approved one week prior to the tendering closing date. One week prior to closing tenders, these guys came in to bid on 600,000 square feet of flooring that they had supposedly no involvement in. One week prior they were allowed in the back door with a product that had been manufactured for less than six months, had not been installed in Canada at the time of the original evaluation and was not even on the market at the time of the original evaluation.

**Mr Bradley:** This is getting more interesting by the moment.

**Mr Mahoney:** Going on here, it says: "In the third phase," this is Mr Di Santo, "mock-ups of the recommended product type were constructed and evaluated. The comprehensive Access Floors study formed the basis of the base building tender documents."

Response: "True, however, the product that was approved by addenda one week prior to tender was not required to have a mock-up with the others.

"Why not? Could it be because it was not being manufactured at the time, or was it favoured to avoid direct comparison? Why wasn't it required to go

through the same process as all of the others?" Interesting question.

In my last minute, because there are many things that I could go on about, in reference to this company I want to make very clear what we're dealing with here. These are the projects where this company, this Canadian Oakville company, has installed their product in this country: Royal Bank, 320 Front Street, 80,000 square feet; Canadian Imperial Bank of Commerce, Streetsville, Markham computer centre for the bank; Ministry of Government Services, Thunder Bay, 70,000 square feet; Ministry of Government Services, Sudbury, development and mines, 100,000 square feet; Ontario Lottery Corp, Sault Ste Marie, 320,000 square feet; Royal Bank Data Centre, Guelph, 60,000; Rogers Data Centre, Markham, 60,000; Solicitor General's building, Ottawa, 30,000; Ryerson University, Toronto, 24,000; First Financial Place, Toronto, 20,000; CMHC, Ottawa, 17,000; Royal Bank leasehold improvements, Toronto, 13,000; Unitel Data Centre, 30,000; Bell-Northern Research, lab 5, Nepean, Ontario, 400,000 square feet of flooring; Regina, Saskatchewan; Winnipeg, Manitoba; Guelph, Ontario.

It is an outrage that this company has been cut off without any opportunity. This committee has put a muzzle on them that simply extends the muzzle that the Workers' Compensation Board has put on them from day one, going back two years. It is an absolute outrage, and if the committee members on the government side had any integrity in this, they would demand that this issue be reopened now.

**Mr Arnott:** It's my first day on this committee, so if I ask any questions that may have come up yesterday, I hope you'll understand why. Like many of the other members of this committee, I have serious concerns and have heard many complaints from constituents who have had difficulty in getting a timely response from the Workers' Compensation Board, and that concerns me greatly. I share the experience of many of the other members whose staff have made calls.

When I used to work for Jack Johnson, who was the former member for Wellington, I probably phoned Mr Marchese; I seem to recall his name. I made many calls at that time, from 1987 to 1990, and we had the same problem. The problem, at least in my experience, goes through two governments; it may very well have existed during the course of three governments. But it is still there, there is still inadequate service, and I remain dissatisfied with the system as it is.

I don't know how much of the time of our riding office staff is consumed by workers' compensation complaints, but it is significant. We've never done a real accounting of what we spend our time on specifically, but it is significant. I wouldn't be surprised if it's 33%, as some of us have reported.

Back in 1991, when the government was new and,



Mr Chairman, when you were a newly appointed chairman, and, Mr King, when you were coming in, at that time I think the government recognized that some changes had to be made. In fact, Mr Waters was the member of the subcommittee of the resources development committee at that time which used, as the government's motion, standing order 123 to look into the issue of service delivery at the Workers' Compensation Board. Coincidentally, we've received today a copy of that report. Our caucus, and I was a member of that committee at the same time, had a great deal of interest in this issue. We didn't support every single recommendation in the majority report; we issued a minority report at that time, and I hope you've had a chance to look that over. You probably recall it from that time, Mr Di Santo.

We made five specific recommendations, and I'd like to ask you now if you followed up on any of them, and if not, why not. At that time, and this is October 23, 1991, almost two years ago, we asked that the Provincial Auditor be immediately commissioned to conduct a value-for-money audit of the Workers' Compensation Board. Has that been done, and if not, why not?

**Mr Di Santo:** As you know, the board is reviewed annually by the Provincial Auditor. We just recently had a review of the building by the auditor. Apart from that, we have an internal audit committee, which is chaired by Mr Carmer Sweica, who is a representative of the employers on the board of directors, and two more board members. We are auditing on a permanent basis the business of the board, but apart from that, I want to put on the record that for the first time in the Workers' Compensation Board's history, we are costing every program that we develop. That's a commitment we made with the board of directors and we stick to it. If you look at the minutes of our board, every program has been costed constantly so members of the Legislature and stakeholders can check continuously on our expenditures, how we are spending dollars on our revenue side.

1500

**Mr Arnott:** So I take it from your answer that there has not been a value-for-money audit through the Provincial Auditor?

**Mr Di Santo:** There has been not an audit in general terms because that has not been approved by the Legislature, but there have been a number of audits and there are continuous audits internally and annually by the Provincial Auditor.

**Mr King:** A very brief addendum to what Odoardo said: We are subject to audit by the Provincial Auditor. In fact, there is an external auditor named. The present external auditor is the firm of Peat Marwick. They come in and do a complete audit on those things they think should be done to make sure they can attest to the validity of the board's books. That is signed off in our

annual report. In addition to that, they do two additional value-for-money audits per year.

So it's not that we are not subject to the audit by the Provincial Auditor; it's that a total and comprehensive audit of every part of the WCB, which I would conservatively estimate would be a \$20-million or \$30-million cost, has not been done.

**Mr Arnott:** And that compares to what, \$150 million worth of fraud, your estimate?

**Mr King:** I had indicated that experts would present a 5% figure as the possible fraud. I'm not too sure, however, that there's a linkage between the amount of fraud that might be in the system and what it costs to do a comprehensive audit.

**Mr Arnott:** Yes, but a value-for-money audit might be able to identify ways to minimize fraud. That's what I was just thinking of.

**Mr King:** As a matter of fact, we have called in several special audits to help us deal with the question of how to protect ourselves against fraud.

**Mr Arnott:** Mr Di Santo, you've indicated that there are ongoing internal audits, but the whole purpose of an external audit is to have an outsider come in and point to things that might not come to the fore through an internal audit. So an internal audit, while it may be fine and required, may not be going far enough.

You've indicated that there's been an audit of the building. Has that report been released to the public?

**Mr Di Santo:** To the Legislature.

**Mr Arnott:** To the Legislature? Okay. But a value-for-money audit is something different, and it would make sense that through the Provincial Auditor would be the best mechanism to achieve that. When you're talking about the audit that your chartered accountant looks after, it would attest to the accuracy of the books, I gather, but it wouldn't demonstrate value for money.

**Mr Di Santo:** We realize that a value-for-money audit is different, but that's a decision that obviously has to be taken at a different level; it cannot be taken by us. What we can do and what we've been doing: The board of directors, I'd like to remind you, which is made up of representatives of workers and employers, has asked us to cost every decision we make, and we've been doing that. That's a way of controlling our expenditures. If a request for an audit for money's approved, then somebody else has to make that decision.

**Mr Arnott:** All right. The majority report back in 1991 of the standing committee on resources development suggested that there should be an operational review completed, and I assume that was done.

**Mr Di Santo:** We did it in the—

**Mr Arnott:** Right. The Conservatives also recommended that upon completion of the operational review and before any additional resources are allocated to such



major activities as claims adjudication, assessment and rehabilitation, the chairman of the Workers' Compensation Board table in the House a detailed cost-benefit analysis of the proposed policy changes, including specific justification for any increases in staffing levels.

Have there been increases in staffing levels since 1991, first of all, and if there have been, has this report to the Legislature taken place?

**Mr Di Santo:** This is the report that we submitted to the Legislature on May 18, 1992, as a response to the standing committee request. In terms of staffing, in fact we had a decline since 1991; there has been no increase in staffing. As I said before, in the annual purchasing plan we are costing every new expenditure, including possible staff increases, but they have not materialized until now and we are not forecasting an increase for the time being.

**Mr Arnott:** How many staff do you have right now and how many did you have in 1991?

**Mr Di Santo:** I think we have close to 5,000. I don't have the figure with me right now. As I said yesterday, when you were not here, in 1992 we had a flat-line budget. If you include all of our legislative obligations towards the health and safety agency, the tribunal, the office of the worker and employer adviser and if you include all the internal obligations, the contractual obligations with our staff, we actually performed at a much lower level than in 1991.

In 1993, again we had a flat-line budget and the board of directors directed us to seek a saving in the order of 3% on the administration budget. We are right on target. On top of that, of course, you have to add the budgetary reduction because of the social contract.

**Mr Arnott:** What's the average salary of an employee at the board?

**Mr Di Santo:** You're asking me questions that I cannot answer, not because I'm not an expert but because I don't have that. We will get it for you.

**Mr Arnott:** Do you have someone here?

**Mr Di Santo:** We'll be able to give it to you.

**Mr King:** I think I can shed some light on the concerns about the administrative situation. We do have some figures from our annual report, that in 1990 there were 5,138 employees at the Workers' Compensation Board; in 1992, there were 4,909, or a drop of 229 employees over the space of those two years. But I want to stress to the members that we didn't cut the service to the injured workers or the employers. We redeployed people out of non-core operations. In fact, \$10 million was added to the budget that serviced injured workers and employers that came from other parts of the organization.

At a time when the rest of the broader public sector still hadn't realized that there was a problem with resources, our administrative budget moved from \$343

million in 1991 down to \$338 million this year. So we have dropped our administrative budget for the past two years. Our employees have not had raises for several years now.

**Mr Bradley:** Like members of the Legislature.

**Mr Arnott:** Your staffing reduction over that period of years is commendable; I think you deserve credit for it. I would like to know if you can give me, even if it's at a later time, the average salary of an employee of the board. I think that would be helpful for us too.

**Mr King:** I think we can get that for you before the end of the day.

**Mr Arnott:** Okay. Our third recommendation was that before the Ministry of Labour allocates additional resources to the office of the worker adviser to establish a satellite office, which was the recommendation of that committee—this is outside your purview directly, but perhaps you might be able to give us some advice on this, because there was a recommendation to establish additional resources to the office of the worker adviser—the minister would table in the House a detailed cost-benefit analysis.

Are you aware of whether the office of the worker adviser has increased its budget? I know this is maybe a difficult question.

**Mr Di Santo:** As you know, with the social contract I don't think anyone can get more allocations.

**Mr Arnott:** We're talking starting 1991, I think, to today.

**Mr Di Santo:** No, we didn't get any more allocations.

**Mr Arnott:** Okay. We recommended, number four, that a moratorium on all Workers' Compensation Board policy changes be established until 1993; so a two-year moratorium on policy changes.

1510

**Mr Di Santo:** When we came to the board, we decided that we wanted more input from the employers and the workers on the board of directors, so I set up a priority policy committee on which sits Mr Robert Stanbury and the vice-chair representing the workers.

As I said yesterday, one of the problems we were faced with when we came to the board was the incredible number of policies that were required because of the new legislation that had been passed, which not only took a lot of time from the organization but also complicated immensely the work of the adjudicators because they just couldn't keep pace with the new policies. So we decided we would limit the policy elaboration within the board, but of course we couldn't stop completely, because we have to deal with realities that affect the workplace; we have to deal with them because it's an obligation under the act. But if you look at the policies approved by the board of directors in the last two years, you will see that they're comparably insignificant in

numbers in comparison with previous times.

**Mr Arnott:** More technical and refinement policy changes than—

**Mr Di Santo:** We have requests from adjudicators, we have requests from employers, we have requests from workers. We cannot say we will stop everything. A total moratorium is unfeasible, is not practical.

**Mr Arnott:** I have a great deal of concern about the idea of flat-lining the rates. I understand from what you've said that you're giving consideration to that concept. I'm not sure what stage you're at. Have you studied it? Are you undergoing some sort of review of the concept? Could you tell me a little bit more about what's happening there?

**Mr King:** I'm the one who was quoted in a speech yesterday as suggesting that people should give serious consideration to a flat rate and provide other incentives for safety or equity and fairness. The Workers' Compensation Board has done nothing to initiate a flat rate. As a matter of fact, the Workers' Compensation Board implemented the revenue strategy that the employers of Ontario asked to have implemented.

I merely threw out some ideas to this committee in a public setting yesterday for people to think about. I'll repeat what I said this morning. I think competition in North America that has arisen because of the Far East, because of the free trade and possibly because of NAFTA, has called into question some traditional thinking that said rates should be based upon straight experience. If that straight experience prices us out of the market, then I think people have to look at whether there shouldn't be some sort of cross-subsidization between those industries that feed upon or get rich on those manufacturing and resource industries that create the real wealth in Ontario. There are going to be no banks or insurance companies getting rich in Canada unless there are healthy manufacturing industries, healthy mining industries to support the lending and the insuring. That was the point I was trying to make.

**Mr Arnott:** But there aren't too many people, any sort of people, getting rich these days in Ontario, as you know.

**Mr King:** Including bureaucrats.

**Mr Arnott:** When you're talking about the need for competitiveness in Ontario, the requirement upon the government to ensure that a competitive environment exists such that businesses can survive in Ontario, I agree with you 100%. Whether your suggestion that we go to some sort of flat-lining achieves that or not, I have some degree of doubt.

Also, I have serious concerns about the issue of an employer who has a good safety record in the workplace subsidizing someone who doesn't. I don't understand the connection as to how that would promote safety in any way. I have some experience in the construction

industry; my family's been in the construction industry for 60 years and I've worked on construction. Construction sites, by definition, are not the safest places to work, therefore the construction industry, generally speaking, pays a higher rate of workers' compensation premium than a grocery store. I think that makes sense. But to have a situation where the small businesses are coming in and paying the same rates as some of the heavy manufacturing or construction or what have you, and having the small businesses subsidize the others, the less safe ones, I don't see the sense in that.

**Mr King:** Again, this is something that probably is the subject of a lengthy debate in and of itself.

People don't find it strange that the construction industry, which has a cyclical hiring situation, pays the same unemployment insurance rates as a manufacturer who probably doesn't have any layoffs during the course of a normal year. I think people, if they expand their thinking beyond workers' comp into some of the other areas where there is cross-subsidization, may come to an understanding that there are other ways to look at this than in the traditional ways.

As a point of information, I will get precise figures down to the dollar, but our average salary for non-bargaining unit employees is \$50,000. For bargaining unit or unionized members it's \$35,000.

**Mr Arnott:** Are the claims adjudicators in the bargaining unit?

**Mr King:** They are not in the bargaining unit. The bargaining unit is composed of vocational rehabilitation and the secretarial complement, the clerical staff.

**Mr Waters:** I don't know whether to say it's a pleasure to see you here again or not. It seems that every six months we do one of these, and I don't know how you manage to get any work done when you're spending all your time preparing for us.

**Mr Bradley:** You guys do your best to keep them out of committee.

**Ms Murdock:** That's not true.

**Mr Waters:** My colleague across the way, Mr Mahoney, has gone on at great length about some flooring.

**Mr Mahoney:** Twenty minutes.

**Mr Waters:** Twenty minutes the last round, and this is about the fourth round on flooring so far.

**Mr Mahoney:** I'm trying to help you understand the problem.

**Mr Marchese:** Repetition is good.

**Ms Murdock:** We didn't have a problem understanding.

**Mr Waters:** I do have the floor, I believe, at this point in time, Mr Mahoney. He just went on for 20 minutes reading a letter into the record and making comment on it. Obviously you didn't have a chance to



respond, and I would ask Mr King, if he has a response, to please not eat up the 20 minutes, but a response to some of what Mr Mahoney had to say.

**Mr King:** I can give you a brief response to the concerns raised, except that someone took my paper away. If they bring it back it would be very helpful to me.

Number one, the decision about what type of floor would be used at the building was made before the tender was let; in other words, the decision to go with a concrete-base floor, was made before the tenders went out, saying, "You can bid on a concrete floor." The possibilities of either a wood-fill floor or a concrete floor were thoroughly investigated by a significant number of people before the decision was made about which flooring to utilize. That group consisted of an electrical engineer, a representative from the architect and planning group, it consisted of one representative in that decision from the WCB, it involved two people from the developers and it involved two people from the overall architect of the firm. That decision, I stress once again, was made before the tender was let.

The manufacturer who is being quoted at length here had every input to try to sell to this group a wooden floor before the decision was made to go with concrete. I want to stress this, that the decision was made to go concrete before the tender was let.

I don't wish to go into the type of debate as to this floor versus that floor. That's a very technical debate. I have been quoted in the media in a way that I have already apologized for, if it left anyone any misunderstanding that I was questioning wood-fill flooring. I indicated to the media that this is a professional decision that has to be made and that it was made by professionals, and that if you left decisions like that to laypersons like myself we wouldn't have very good or sound structural buildings. That in no way denigrated from the wood-fill flooring that is being discussed at this committee.

Four firms bid on the concrete flooring, including ASP floors. They bid on the concrete. They were an active bidder on what the WCB facilities strategy determined should be the flooring. They lost the bid.

1520

**Mr Mahoney:** By how much?

**Mr King:** They lost the bid. The flooring would have been manufactured in the US if it had been concrete-filled, so I'm not too sure it depends on how much they lost the bid by.

**Mr Mahoney:** It's Ontario government policy.

**Mrs Haslam:** We shouldn't be discussing that anyway. It's a private matter.

**The Chair:** No interjections, please.

**Mr King:** Therefore, on the first item, the decision on which flooring was made before it went out to

tender. Secondly, four firms bid and the lowest bidder was chosen. It was after that that a considerable amount of lobbying occurred.

I think I have to try to let you know that there is no way of knowing the ultimate job situation related to this tender; a lot has been said about jobs at risk in Ontario. I indicated yesterday that the flooring that will be provided for the building will be 80% to 85% Ontario-product-supplied. Therefore, there will be jobs created in Ontario, so this business about the WCB putting people out of work I think is speculative at the best and perhaps misleading at the worst, although again I want to stress, I want to—

**Mr Mahoney:** I'm just reading the facts.

**Mr King:** I understand that it is hurtful for someone to lose on a fair and open tendering process, but to come in and argue for something that was considered seriously and rejected as an alternative, after the fact, after you've openly participated in the tendering process for the flooring that was chosen, I find to be unusual in the contracting business, in the construction business.

I think I've said enough about this. I also had the letter and I was following the member's questioning. He didn't get through the entire thing. Maybe we'll have a chance later to discuss this issue further.

**Mr Waters:** One quick comment, by the way. I've heard so much about dust. I've been in maintenance and around industry most of my life, and I've cut concrete, and you do it with water, for the most part. There is not dust. There is a sludge, but there is not a lot of dust. It's all wet and very slippery.

But I'd like to get back to what I believe the topic of the afternoon was to be, fraud.

**Ms Murdock:** No. That was this morning.

**Mr Waters:** Then I missed out on this morning; I never got a chance to ask. You made a comment this morning that said you've been doing some visitations with our counterpart south of the border and you were talking about how they're dealing with fraud. I was wondering if you had any indication as to how your efforts stack up against theirs at this point. Are we about equal, are we worse than they are at dealing with the situation, or are we indeed ahead of them?

**Mr King:** First off, Ontario citizens are generally more honest than many people below 49, and that is no disrespect to people I have a good deal of admiration for, but Ontario citizens generally are very honest and it's unfortunate that there are some who pick another route to go.

I believe it fair to say that the Americans tend to try to put forward for public display individuals who may have been caught in some fraudulent behaviour and to publicize individuals in that way. I believe we have more freedom of information protection for individuals that doesn't allow us necessarily to be quite as aggress-



ive as some of the American jurisdictions are in this area, although I want to stress that when charges are laid, we are partnering with the law enforcement agencies a joint press release approach; that is, at the final stage of when a charge is capable of being laid. We're not trying to hide anything here, it's just that we can't be quite as aggressive in publicizing this.

In terms of vigilance, I would put our present efforts of moving from only one individual two years ago, one person, to having more than 20 people full-time just investigating fraud, let alone training 1,700 people on fraud awareness in terms of looking at all of our systems to make sure they're secure, in terms of bringing in outside audit firms to do special audits to determine whether our systems are secure from tampering, ensuring that our human resources policies are secure against hiring people who probably are not secure, with large temptations. I think we're doing as much or more than all but one or two of the most advanced states in the United States to combat fraud.

**Mr Waters:** I'm going to ask one more quick question, and then I know everyone else wants to. I go back to the resources development 12 hours. Under staffing, on page 14, the first comment was that "adjudicators may be responsible for as many as 300 claim files" at any given time. It was felt by not only the injured worker but also by the employer that this, and dragging you down here all the time, were two of the biggest concerns they had. They wanted that dealt with and they wanted us to leave you alone to do your business. Could you answer that part of it? Has that improved?

**Mr King:** There are two key functions to proper case management, that is, getting workers' claims adjudicated and getting workers back to work. The vocational rehabilitation counsellors are case workers who are the people who go out and help workers return to employment. The average case load at the time the standing committee was holding hearings in 1991 was in the neighbourhood of 82 cases per individual case worker. We've got that down through the addition of staff and through the reduction in the total number to around 61 people, so that's a decrease of around 25% per case worker. Our adjudicators are down around 80 to 100, depending on what area, from the 200 and 300 you may have heard quoted.

I want to stress, however, that this doesn't mean we're not looking carefully at the total staffing complement needs, that we're retaining people when there's no work for them to do. As a matter of fact, in order to try to make sure we are not overstaffed, we just made a voluntary early retirement package available to those who qualified under the superannuation plan. This package was put out to some almost 80 people, and 62 of them have selected to opt for an early retirement provision. So we're looking at ways to reduce our total

complement while maintaining our support for the case loads, so that as our numbers of claims drop off we don't end up with an embarrassment of resources with few claims coming in. We're trying to plan our way towards a smaller, better-managed organization through things such as this early retirement program.

**Mr Waters:** I'll pass to my colleagues.

**Mrs Haslam:** I'd like to thank the committee and the people who have been so accommodating in getting the information when we've asked for it. For instance, we asked for the standing committee on resources development and we have it, we asked for a report on the chairman's task force on the service delivery and that came, and if you take a look at all of this, it provides a very interesting paper trail.

1530

In November 1991 under the resources committee there were some recommendations brought forward.

"The committee therefore recommends that:

"An operational review of the service performance of the board (as recommended by the office of the employer adviser) should be conducted immediately."

It's my understanding that this has resulted in an action plan, which, surprisingly enough, is what we're talking about this afternoon—some of us are.

It also made some recommendations about:

—"thinking through the adjudication function and working at adapting the electronic imaging to better meet the needs of adjudication staff," which I understand you've worked on and you've done.

—"ensuring that clients telephoning the board have the option of speaking to an employee rather than an answering machine," which, thanks to another piece of paper, shows that your telephone areas have come down and the time involved has been cut down.

—"invoking a more rapid turnaround time," which, I understand through the other piece of paper, you've been able to bring down too.

—"ensuring that all board forms, documents and correspondence are written in a clear, simple manner," which you had stated earlier you were able to bring into place, and doing it in a consultative manner with both employers and employee groups, which is another recommendation: "consult with its clients and keep in mind their need for a system that is accessible."

So that's the first one. That was November 1991. Out of that came the Report of the Chairman's Task Force on Service Delivery and Vocational Rehabilitation, which came down with some recommendations, and I read again: "Appoint a chief vocational rehabilitation officer and establish a vocational rehabilitation secretariat with the following mandate." It's my understanding from the young lady you had here today that she was on the hiring committee and that that recommenda-



tion was followed through from that task force report.

Throughout the task force there are references to the fact that staff and stakeholders must be brought more fully into the workings of the board. Another common theme running through the task force report is the need to build an internal partnership between the staff, the executive and the board of directors. From what I hear from the two people you had here this afternoon, again you've followed through on that recommendation.

That brings me to the Workers' Compensation Board of Ontario annual report from 1992, where again you say: "The action plan: Introducing new initiatives in vocational rehabilitation and case management; creating partnerships with stakeholders; developing a new corporate culture; looking to the future; and developing the internal partnership."

It seems to me that again you've followed through on that. If I'm not mistaken, that's what the action plan second-quarter report was all about, giving some details and giving some time lines about what you've been able to accomplish.

All of this seems to show that you're following through on every recommendation that's ever come forward out of all of these books, even in what you, Mr King, said at our opening the other day: "First of all, there is the action plan, which is the administration's response to the task force report. It is extremely innovative and an invigorating experiment in workplace democracy and cooperation."

Like I said, I came here with a lot of questions and a lot of concerns about how the WCB works, but anyone worth their salt in research will see that in front of them the answers to half their questions are right here, that you're doing your job.

But I still have a question for you. Given all of that, I understand you have these recommendations and you want to implement the recommendations of the task force. You have a joint committee which is looking at a more productive and a more responsive way. Can you please tell us, though, how you'll be able to monitor the progress to make sure these recommendations are not just implemented but have a positive effect on both the service delivery and in particular the vocational rehabilitation, which, as everyone knows, is something you are keenly interested in at WCB?

**Mr King:** Can I defer to the chair of the board?

**Mrs Haslam:** Only if his answer is shorter than my question.

**Mr King:** He has made the task force and the promise of implementation his own special project.

**Mr Bradley:** Somebody pass the pompoms.

**Mrs Haslam:** You went to school with me, Jim. You know I was a—

*Interjections.*

**The Chair:** I think we can proceed a little more efficiently if you don't bait each other and interject.

**Mrs Haslam:** You're correct. Madam Chair. I want to agree, because that was one of the things I said in the House. Don't bait the bears, Mr Mahoney; don't bait the bears. You're absolutely right, and I take the admonition seriously. I am very interested in the answer.

**Mr Bradley:** I'm just reading Elie's old speeches.

**Mr Di Santo:** I want to thank Mr Bradley. I think I heard him saying that the answer has been passed into very able hands. Thank you, Jim.

**Mr Mahoney:** Do you have a plaque you'd like to present to them, maybe?

**Mr Di Santo:** I'd like to say, Madam Chair, that you had here two of our staff telling you of the democratic process that let them choose their new chief, but we didn't make the headlines: If you look at the business page today of the Toronto Star, there is a big headline, "In This Company, the Workers Choose Their Boss." We don't make those headlines; we make headlines when something goes wrong. Okay, we accept that. This has been the history of the board and probably will be the history of the board.

What we are trying to say honestly to the committee is that we are attempting in a very serious way to try to overcome some of those problems. Also, in a very straightforward way, I want to tell you that we cannot solve all the problems, because some of the problems are of a legislative nature. We cannot solve them.

In terms of the action plan, which is an internal operational plan, we have planned it with the board of directors, because we want the input of the two stakeholders. We had a bipartite task force.

**Mrs Haslam:** Mr Di Santo, my question was—

**Mr Di Santo:** How do we implement it? Exactly.

**Mrs Haslam:** No, no, not how you're implementing it, but are you monitoring it so that it is a positive reaction for everyone involved?

**Mr Di Santo:** The two tenets were that the board of directors wanted our staff participating, so we have committed ourselves to report quarterly; you can get our quarterly report. Brian said that we have a committee made of workers and employers, our workers and management at the board, who are monitoring the implementation of the action plan.

Also, we have an advisory committee on rehabilitation, which I just appointed based on nominations from employers and workers, and they will be monitoring and working with the chief rehabilitation officer. I hope that in future we can have local advisory groups in each regional office so that we have a continuous interaction between clients, our staff and the management at the board. I think if it works, it will be good for the board.

**Mrs Haslam:** Do I have time?

**The Chair:** No, I'm sorry.

**Mrs Haslam:** I always get just one, don't I?

**Mr Mahoney:** In the area of accountability, let's talk specifically about governance. I think it was Mr King, and I stand to be corrected, who said, "We want many of the issues, whether it's the building or the flooring or whatever, to be devoid of any political interference." I'm paraphrasing, but that was basically what I understood.

**Mr Di Santo:** you were appointed when to the board?

**Mr Di Santo:** May 1, 1991.

**Mr Mahoney:** No, when were you appointed to the board, not as chair?

**Mr Di Santo:** May 1.

**Mr Mahoney:** In 1991?

**Mr Di Santo:** Yes.

**Mr Mahoney:** Who appointed you?

**Mr Di Santo:** The government.

**Mr Mahoney:** Mr Rae, the Premier?

**Mr Di Santo:** That's right.

**Mr Mahoney:** You're a former MPP?

**Mr Di Santo:** That's right.

**Mr Mahoney:** You served in the Legislature—perhaps you can help me.

**Mr Di Santo:** I was serving in the Legislature from 1975 to 1985. In 1985, I was appointed by David Peterson, the Premier of Ontario, as the director of the office of the worker adviser.

**Mr Mahoney:** That was probably part of the accord, was it? Was that part of the accord?

*Interjections.*

1540

**Mr Mahoney:** Listen, a lot of things that were done in those days I didn't agree with, but I just want to understand. That was 1985, so that was part of the accord between the Liberals and the NDP, was it? I'm just trying to understand what the political framework of this whole thing is.

**Mr Di Santo:** I will never impute motives to the decisions of the then Premier of Ontario. I modestly think that—

**Mr Mahoney:** He made a heck of a decision.

**Mr Di Santo:** —given my background and my expertise, he thought I could do a good job, and he expressed pleasure with my performance on several occasions; you can check with him. That was totally non-partisan and apolitical.

**Mr Mahoney:** In any event, you were there for 10 years. You're currently collecting an MPP pension as well as the salary from the WCB so you were—

**Mrs Haslam:** Like Mr Mancini.

**Mr Mahoney:** Mr Mancini does not work for a

government agency, you might like to know. He works for the private sector. I think there's a difference.

In any event, your background is with the NDP. You're appointed by the Premier to be chairman after 10 years of what I'm sure was a distinguished career representing your riding in the Legislature.

**Mr King:** I understand you were appointed in April 1991. Your background, sir, I understand was something to do with the Saskatchewan Workers' Compensation Board, is that correct?

**Mr King:** I had been chairman for five years, one term, of the Saskatchewan Workers' Compensation Board, yes.

**Mr Mahoney:** How do they do it in Saskatchewan? Is that a political appointment, or who would make that decision?

**Mr King:** The chairman's position is by order in council; the cabinet would be making the decision, yes.

**Mr Mahoney:** Are they like this government, where the Premier makes all those decisions? That's probably unfair, but in essence you would have been appointed by the Premier in Saskatchewan.

**Mr King:** Mr Blakeney would have signed the order in council. I'm not too sure whether he made the decision or whether that would have been the Minister of Labour, who would have been the minister responsible.

**Mr Mahoney:** And then you went to the Manitoba Workers' Compensation Board, another NDP government, interestingly enough, and you were again appointed by the Premier there.

**Mr King:** That's correct.

**Mr Mahoney:** I'm not questioning your qualifications. I just want to deal with the issue of political accountability, who's pulling the chain of whatever goes on. Just to be clear for the record, you were appointed by an NDP Premier in Saskatchewan, another NDP Premier in Manitoba and then an NDP Premier saw the good work you did and got you to come to the province of Ontario, and that's why you're here today.

**Mr King:** Am I going to be allowed to respond to that?

**Mr Mahoney:** I'm asking if that's true.

**Mr King:** Am I allowed to respond to that?

**The Chair:** You're being asked a question. You may respond to it, of course.

**Mr King:** In 1973, I joined the civil service of the province of Saskatchewan, recruited not for political reasons but for reasons of being the best to do the job: merit and ability. Because I happen to know a good deal about workers' compensation and because the government of Saskatchewan wanted a non-political appointee to the chairmanship of the board, I was selected. I served for five years in Saskatchewan, two of those



which would have been under the Blakeney government. I continued on for three years under the Conservative government that was elected in 1982.

I then joined to do a study in Manitoba, which was supported by all parties of the Legislature, on the workers' compensation system. A near-unanimous report of industry and labour was written about the Manitoba system and the government later asked me to come in and try to bring a non-partisan approach to the Manitoba Workers' Compensation Board.

I did not apply for the job in Ontario. I was recruited by a management consulting firm on behalf of the government. Thank you.

**Mr Mahoney:** I understand that these questions may cause you some frustration. I'm not attempting to attack you personally; I'm sure you could care less. I'm attempting to deal with the issue you raised, that there shouldn't be politics in these appointments. I happen to agree with that, notwithstanding that David Agnew is head of the civil service; that's not a very political appointment, I'm sure.

Someone once said that politicians should stop—that there's too much politics going on. I don't know what they expect from their politicians. It's sort of in the job description that you've got to do a little politicking from time to time. I guess it's an issue of credibility, though.

I agree that decisions, such as the one that went against the Oakville company on the flooring issue, should be totally clean of any political influence. I'm not even suggesting there was political influence; I have no evidence to make such a charge or suggestion. I think it's an unfortunate administrative decision that, frankly, rests at the feet of the chairman of the Workers' Compensation Board, from all of the evidence I've been able to obtain.

I only suggest that when you have a government agency such as the Workers' Compensation Board, where the people who are in charge of governing it are—and this is not a question on competence but a statement of fact—a former NDP MPP, appointed by the current NDP government to chair the Workers' Compensation Board, and the vice-chair of administration has worked for several NDP premiers throughout the country—to me, those are political appointments, and I don't know how you expunge the politics out of that particular reality. Chances are, Mr Di Santo—I'm not making any predictions, but a future government might not see fit to renew and indeed may look to someone who doesn't particularly have political ties to its party. Time will tell. Currently, of course, the chair is appointed by the Premier, as is the vice-chair.

There has been some concern, because many advocates of the workers' compensation system—and let me be clear that I and my party are very much advocates of a good workers' compensation system, whether it be a

model such as the one I suggested earlier that you and I, Mr King, had some dialogue about or whatever the model be; my mind's open to it. How we arrive at that decision on reform of workers' comp causes me some concern, because the leaked document that came to our party a week or two ago on the government's fall agenda did not include workers' comp reform on its agenda. As a matter of fact, it was specifically excluded, which bothers me a great deal, because I thought the Premier's Council was reporting to the Premier, virtually imminently, to make recommendations on reform, yet the government House leader and the agenda being drawn up does not address any of the reforms that I get a sense even you folk would like to see addressed in some positive way.

One of the areas is that I think advocates of the system feel that, quite often, a chair's decision and/or a vice-chair's decision could be influenced by the government of the day if that particular government happens to be the one that holds the power to appoint or fire, as the case may be. As a result, the suggestion of an independent chair, or a chair and vice-chair elected by the board, perhaps, would have some merit. There's no guarantee there, because you could wind up with a board that would decide to elect both of you. That would be fine, if that was its decision, democratically arrived at, but it might decide to elect Bob Rae's brother-in-law, for all I know. I have no idea, so there are no guarantees.

The government's always trying to push you guys away at arm's length. Bob Mackenzie, every time he writes a letter, says he wants nothing to do with you. I don't know why, but that's what he does. Why not have a little more arm's length with regard to the governance and the appointments of the chair and the vice-chair? Any comments or reactions?

**Mr Di Santo:** I want to respond to that, because I am really offended by the tone of the comments made by Mr Mahoney. Regardless of what he thinks of myself and my ability to run the board, I will not accept that the fact I was a member of the New Democratic Party is impeding me from working at the board in a way that is objective and that has regard for all the parties.

1550

Incidentally, I have to say that, obviously, before me all the appointments were non-political. In fact, the chair before me was the Honourable Robert Elgie, who was a surgeon, was not a politician—

**Mr Mahoney:** Surely we need a surgeon.

**Mr Di Santo:** And before him, the Honourable Lincoln Alexander, who was a lawyer, who was not a politician; before him, the Honourable Michael Starr, who was not a politician, who was a bookkeeper at Sklar furniture in Oshawa. Of course, this is the first time in history that a person with political affiliation is appointed to the Workers' Compensation Board.



I have to remind the committee in the strongest possible terms that one must understand the way the board works. The board is run by a board of directors that is made up of four representatives of the workers and four representatives of the employers. The four representatives of the employers are Mr Carmer Sweica, who represents COCA; Ms Daphne FitzGerald, who works with Zurich Canada; the Honourable Robert Stanbury, who is a full-time vice-chair representing employers, and Maurice Dutrisac, who works for Southam. For the workers, we have Dennis Schweitzer, who works for the transportation workers; Joe Duffy, who is with building trades; Stephen Mantis, who is an injured worker; and Homer Seguin, who is a skilled worker, a former miner.

The board makes all the important policy decisions at the Workers' Compensation Board. I invite the committee, for respect of the truth and for respect of what's happening at the board, to look at all the decisions of the board. Never in my life have I made a decision on partisan terms. In fact, almost all the decisions of board are reached by a consensus. There have been a couple of occasions where I had to split the vote, and one time I voted with the employers and one time I voted with the workers, so I think nobody can impute that because of my past, I am impeded from performing my job at the Workers' Compensation Board.

**Mr Mahoney:** Mr Di Santo, one of the difficulties, whenever you try to honestly examine an agency or a system, is that it impacts people who will take comments personally. I assure you that mine are not of a personal nature; I don't even know you, so they're not of a personal nature. I'm talking about the system where a Premier appoints—and no government is immune to this. Our government did it; the Conservatives did it for 42 years, for goodness' sake.

**Mrs Witmer:** The best days of the province.

**Mr Mahoney:** Gasp. The point I try to make is that if we're going to really objectively analyse reforms, then the first thing you have to do is have thick skin. Surely to goodness, after 10 years in the Legislature, you would have such thick skin.

This is not a personal attack on you or Mr King. This is an issue of governance about, how should we be appointing a chair and a vice-chair of a government agency, in this case yours, ours, the workers' compensation agency? There are people who would say that a chair holding a card in the New Democratic Party or having been a past member of that party or being a current member of that party might be influenced by that party as long as it's in government. There are people who have said that. How do you deal with that kind of criticism if you don't depoliticize it, which is what I heard Mr King saying this morning?

*Interjection.*

**Mr Mahoney:** Oh my goodness, Jim Bradley, New Democrats? Get that out of here.

**Mr Bradley:** I have a card and I never got appointed.

**Mr Mahoney:** Don't appoint him, whatever you do.

How do you get that kind of objectivity and ensure—the issue of: “Not only must justice be done; it must be seen to be done. Not only must independence exist; it must be seen to exist.” You just happen to be the person in the chair to whom I'm asking the question because you are an appointee of the New Democratic Party. I don't really need a response, but I just reiterate—well, you can make one if you want. Do you think we should have a system that appoints, independently of the Premier's office, the cabinet etc, the chair and the vice-chair of the Workers' Compensation Board, perhaps appointed by the board itself?

**Mr Di Santo:** The board of directors of the Workers' Compensation Board has been dealing with this issue for the last year, since May 1992. As I said before, the board of directors is made up of representatives of workers and employers. In fact, they have produced a document on governance. If the question were asked in the interests of governance and not in relationship to the people who are now at the board, I would have answered in kind.

The proposal made by the board of directors was agreed upon by us, by the two of us, regardless of the fact that I am a New Democrat, regardless of the fact that I have been appointed by this government. The proposal made by the board of directors, of which we are members, recites like this: that the workers and employers will have an equal number of representatives on the board of directors and they will choose a chairman and they will choose a president.

**Mr Mahoney:** Have you recommended that to the government?

**Mr Di Santo:** We have recommended that to the government. That's why I was offended by your remarks, because you are not interested in knowing what we have recommended, but you were pointing to two people who—

**Mr Mahoney:** You happen to fill the seat at the moment, sir.

**Mr Di Santo:** Exactly.

**Mr Mahoney:** I have to ask the question of the people to whom I am speaking. It's not very hard to figure that out.

**Mr Di Santo:** Okay, but I can react the way I want.

**Mr Mahoney:** You sure can, and so can I. If you want to get your nose out of joint, that's your problem.

*Interjections.*

**Mr Mahoney:** I want to go back to the issue on the floors, if I can, very briefly, the issue of the product you



selected. Clearly, ASP's response states they were not required to have a mock-up prepared along with the others for discussion purposes and that they were allowed to come in with a week to go. Can someone explain why they were not required to go through the same process as the other bidders?

**Mr Di Santo:** Madam Chair, I want to add only this comment, and this is my final comment on this topic—

**Mr Mahoney:** You won't answer any more questions?

**Mr Di Santo:** I will answer questions, and I will answer the way I choose to answer the questions.

We told the committee that our evaluation committee, of which we were part, chose a certain type of flooring, and after choosing a certain type of flooring, bids were open, everybody who qualified was invited to the bids and—

**Mr Mahoney:** Did they have to do a mock-up? That's my question.

**Mr Di Santo:** —and the contractor chose the best bidder. I want to add that Cadillac Fairview is a partner in the building. They are partners for 12% and 15% of the building, so they have a vested interest. I think Cadillac Fairview had no interest at all in wasting money just because it wanted to choose one contractor over another for mysterious reasons. These are my final comments on this.

**Mr Mahoney:** Cadillac Fairview is not accountable to the Legislature, sir. I hope you are. The question was, did they have to do a mock-up? "The construction of the lastminute-approved product bears no structural resemblance to the cement-filled steel panels specified and is merely a sheet-metal-clad cement board." Why did they not have to do a mock-up? Why were they not required to go through the same process as the other people submitting a bid? And, in the time I have left, will you reconsider this bid and reopen the issue?

**The Chair:** There isn't any time for that answer at this point in the meeting. It's now 20 minutes and 30 seconds.

**Mr Bradley:** The NDP will yield some time so we can get an answer, I'm sure.

**Mrs Witmer:** I'd like to focus on some of the problems that are being faced by people in this province. I alluded to some of those problems this morning. I'm going to deal with a specific example and a specific letter. This letter is from London Cartage and Delivery Ltd, signed by the president of that particular company. It's dated August 10, 1993. I want to point out to you some of the frustration that is being experienced by people in this province and I would certainly appreciate your comments. By the way, it refers to your policy on independent operators. It's written to my colleague Dianne Cunningham.

"We are a small, family-owned business that has

operated in London for the past 30 years. We currently have 33 people who earn their income, pay taxes and support families through association with our firm. Through an arbitrary decision reached by the bureaucratic nightmare called the WCB, these incomes" of the 33 people "are at risk.

"There are 23 independent operators who supply tractors and some trailers to our company in return for work offered by the company. After an agreement was reached in 1976 between the WCB and the Ontario Trucking Association, independent operators could sign a WCB form. This authorized the deduction and payment of WCB costs on their behalf by the company. All of our independent operators signed the form, which was designed and produced by the WCB. By doing this, the independent operators received coverage and the WCB received payment.

1600

"The independent operators running for our firm have been deemed by the WCB to be workers for purposes of the WCB. It amazes me how the WCB can deem these people to be workers when Revenue Canada, UIC and CPP recognize them for what they are, independent operators. We do not provide a T4 to any of these operators, nor can they contribute to UIC because they are independent businesses. These drivers pay for their own vehicles, pay their own maintenance, fuel and replacement costs, and when they leave, the tractors go with them. I do not understand how the idiots at the WCB can realistically deem these people to be workers." I just pause here. I think you can see the frustration. "It frustrates me to no end, and fighting the government bureaucracy takes up valuable time that could be better spent looking after paying business.

"New rules established on July 1, 1993, will not alter the current situation one bit. The problem stems from the revenue department and the need for these people to justify their positions. The cost to small business is of no consequence, and since the bureaucrats continue to produce an endless paper trail, their position will remain secure. In the meantime, our very existence is in jeopardy. The rules will continue to change at the whim of some bureaucrat who has little or no knowledge of the trucking industry and is not interested if we continue to operate.

"If we are forced to refund any money to any of the independent operators, we will have no recourse but to declare bankruptcy. This would add several people to the welfare system and nothing would be gained by any parties involved. The only winners in the whole situation will be the legal profession. Because of the WCB, we are facing a lawsuit by a former independent" and another suit by another independent. "There is not enough money in trucking to accept these...hits and still survive. It seems that the government is intent on forcing small businesses to shut down at a time when



we are so important to the economy. They fail to realize that if they continue to remove small business from the economy, they jeopardize their own livelihood, as small businesses like ours pay people who, in turn, pay taxes so government employees can be paid. I will continue to object to this arbitrary ruling until I have exhausted all channels open to me. If you feel your office or even Mr Mackenzie at the Ministry of Labour could offer any advice...I would appreciate" it.

He goes on to say that it's impacting his personal health and he really does look forward to having this problem resolved.

Can you give me some suggestions as to how individuals such as this person can be assisted?

**Mr King:** Can I make the very initial response of indicating that on an individual case basis, I don't believe it fair nor proper to debate or respond in a public forum like this. I will undertake, however, if you will refer either the individual to me or the correspondence you've just referred to, to have a personal response prepared for that person. I would like, however, to have the senior vice-president of strategic policy comment on the efforts we have taken, as an organization, in the trucking industry to clarify the rules and to simplify for the industry who is an independent contractor and who is a worker.

We worked very closely with the Ontario Trucking Association and achieved its concurrence on the type of decision that was finally arrived at.

I would like Linda Jolley to briefly go through that.

**Ms Linda Jolley:** Linda Jolley, senior vice-president of strategic policy and analysis division at the Workers' Compensation Board.

We worked with the Ontario Trucking Association and the trucking unions. These concerns were brought to us when our new questionnaire came into effect on January 1, 1993. We had a series of meetings with all of the industries concerned about the independent operator situation but, needless to say, the trucking industry in particular was the one that was the most vocal.

We met continually with the Ontario Trucking Association, with the independent operators' association, with the Teamsters, with CBRT, the Canadian Brotherhood of Railway, Transport and General Workers, and with a number of other unions, including the United Food and Commercial Workers, which has independent operators and workers in the organization. We reached a tentative agreement on a new questionnaire that in fact the trucking association, the Teamsters and the independent operators organization signed off on. Two of the unions expressed some concerns about it but were willing to go along with it.

The understanding in this one is that they will use the questionnaire to define whether or not they're indepen-

dent operators. The industry itself felt, as did the Teamsters and the other unions, that we were really defining who is an independent operator and who is really a worker in a way that our previous questionnaire did not do.

The understanding, however, would be that the industry and the WCB would try, although we're not mandated to demand it, to encourage independent operators to then take out personal coverage. One of the interests that the industry would have was the protection against lawsuits in the case of an accident if they did take personal coverage.

Right now, this new questionnaire has been in effect since July 1, 1993. My understanding is the revenue department is not making the decisions that it was making with the other questionnaire. The decision on whether or not one is a worker or an independent operator will in fact be made at the time of an accident and is not being made by the revenue department. We are taking the questionnaires at face value on the understanding that this is an experiment, and if we can attain coverage through this experiment in the next year and a half, we will have served all interests.

**Mrs Witmer:** Then why has it taken so long for this particular situation to be satisfactorily resolved? I think I've pointed out the stress it's caused to the personal health of the employer.

**Ms Jolley:** Unfortunately, when one is dealing with two separate interests, from an industry and a union perspective, it takes some time to build the trust to come together to work on a policy. It took us, unfortunately, about two and a half months to bring the parties together to really sit down and to forge this consensus.

**Mr King:** I heard what you said in terms of the anguish and the possible personal health problems that were involved here. I repeat my offer not to debate an individual issue in public—I don't think it proper if there are quasi-judicial decisions to be made here—but I will give the undertaking to have a personal response to the concerns in a very timely way so that this citizen of Ontario is aware fully as to what his or her rights and responsibilities are, through myself.

**Mrs Witmer:** This is part of what I alluded to this morning. There really is a high level of frustration. Maybe in this case it's the lack of a timely response, which I indicated this morning was a primary concern, as well as a lack of communication. Individuals just don't know where they are in the process. Those are probably the two most critical areas.

I trust you will follow up and I trust that we can save the jobs of these individuals, because obviously they're desperately needed in our province.

1610

**Mr King:** Just a technical matter: I have been given a copy of this, and I assume I now can take this and



respond to it.

**Mrs Witmer:** Yes, you can.

**Mr King:** Thank you.

**Mrs Witmer:** I'd like to move over to another area: I'd like to take a look at Bill 162. It's obvious that the implementation costs have far exceeded even the highest projections that were ever made. The amendments which took effect in 1989 added nearly \$1 billion to the unfunded liability. At that time, if you will recall, the Liberal Minister of Labour, Mr Sorbara, stated: "The overall financial impact of these reforms will be revenue-neutral. They will reallocate resources within the workers' compensation system to compensate for loss of earning ability and help focus our efforts on the priority of rehabilitation."

**Mr Bradley:** Sounds like Bill Davis on separate school funding.

**Mrs Witmer:** We know that's not true. We're aware that although the area of undercompensation has been addressed, in the area of overcompensation we have a very critical problem in this province. Why is it more critical in this province than in other Canadian jurisdictions?

**Mr King:** I'm sorry. What is more critical? I apologize.

**Mrs Witmer:** The problem of overcompensation.

**Mr King:** I'm not certain myself that the problem of overcompensation is more critical in Ontario than in other provinces.

**Mrs Witmer:** Apparently there was a study done by the Canadian Federation of Independent Business in 1987 that indicated it was a very serious problem in this province in comparison to others.

**Mr King:** I've dealt with the CFIB across at least three provinces, and I can tell you that they've said the same thing in three different provinces, that the problem of overcompensation exists. The same briefs that appear in Ontario appear in Manitoba and go on a Xerox machine and then go to Saskatchewan. I believe that if you checked with your colleagues in those three provinces, you would find the same urgency to the overcompensation question.

**Mr Di Santo:** Can I ask you a question? When you say "overcompensation," what do you mean?

**Mrs Witmer:** We know that some individuals are receiving as much as 135% of their former take-home pay. That's what I mean by overcompensation.

**Mr Di Santo:** Bill 101, which was approved the Davis government, brought compensation from 75% of gross to 90% of the net wage. That's the compensation that in fact we give to the workers.

I know what you're referring to, that because of the income tax system and the way it works, it may end up that some workers, for a given length of time, may end

up getting a little bit more than 90%, but there are also other workers who are not getting more than 90%.

The board attempted to look at this aspect, but we were facing the situation where the statute must be changed. We cannot intervene in any way to try to modify the compensation of the injured worker after the accident unless the bill is changed.

**Mrs Witmer:** So you feel you have no control whatsoever over the overcompensation.

**Mr Di Santo:** I told you that we tried to deal with this issue, and we have not come to the conclusion that there is a case of overcompensation. We heard the allegation, and I think that employers are making that case at PLMAC, the Premier's Labour-Management Advisory Committee. The employers' representatives are making that case, but that's a political decision that has to be made. It's not an administrative decision made by the board administration.

**Mrs Witmer:** I would suggest to you that the formula at the present time is 90% of net, and that's supplemented by the retirement pension of 10%, so that's 99% of pre-injury income and it's non-taxable, so that ends up in the worker's hands, and then we also see some allowance being made in the areas of mortgages and child care. What would your response be to all of this additional money that's being made available to the employee, who's now making substantially more than he or she ever made before?

**Mr Di Santo:** As I said before, the act provides that we pay 90% of the net wage. Because of the income tax system, it may be that some workers, because of the lower rate of income tax, may end up with a slightly higher income than 90%. But that's the Workers' Compensation Act, Bill 162. If you change the act, then we can implement the act, but under the present circumstances we have no choice but to pay what we are required to pay by the law.

**Mrs Witmer:** I guess that demonstrates that the present system really isn't viable if some individuals are ending up with 135% of their former income.

**Mr Di Santo:** I don't know about 135%, and I don't believe that happens. You are a legislator, and obviously you can raise that question in the right forum.

**Mrs Witmer:** What allowance is provided for individuals if they have mortgages? Is there any additional compensation given?

**Mr Di Santo:** No.

**Mrs Witmer:** It's all part of the 90%; they don't ever get any additional money?

**Mr Di Santo:** No.

**Mrs Witmer:** Given this situation and the fact that some individuals are getting anywhere from 90% to 135%, for whatever reasons, have you done anything in the way of launching an in-depth review of the future

economic loss and the non-economic loss provisions of Bill 162? The present system is simply not viable.

**Mr Di Santo:** I would like to ask Sam to come forward. We have been reviewing FEL, future economic loss, because we have a legal obligation to do that: After two years we have to do a review. As you know, the legislation is being challenged from several quarters, employers and workers; workers as well are not happy with FEL because of the deeming clause. We are in a very difficult situation because we are asked to do an almost impossible job.

We are trying now to look at all aspects of FEL. I'll let Sam discuss this issue because he is an expert, more than I am, and I recognize that. We have to deal with the aspect of sustainability, and I think we have to find a consensus with the employers and the workers. We found the solution finally, but it's not an easy question. Sam.

**The Chair:** I don't know if you want to start, with six seconds left.

**Mr Mahoney:** I move we hear them.

**The Chair:** No, it's not that simple, because then we're taking time away from the government members. We've done this pretty fairly all around.

**Mr Mahoney:** We have, and I'm not contesting your fairness in this, Madam Chair—as usual, you've been fair in that area—but we've got more than enough time for the government members and the official opposition to have one final kick at the can. I think we could hear them for a minute or two.

**The Chair:** Is there agreement? Thank you. Please proceed and identify yourself for Hansard.

1620

**Mr Sam Van Clieaf:** I'm Sam Van Clieaf, vice-president of client services.

The question you pose about the financial viability of Bill 162 is really very interesting and I've studied it closely. I really don't think at this stage that one can accurately predict the outcome, simply because of the review system that's in place within the statute.

When an accident occurs, if a worker is disabled for 12 continuous months or if they have a permanent impairment, then they're entitled to a review for future economic loss, and we really started into those reviews early in 1991. They are now coming due for the first review, which takes place 24 months after the initial review, and there are a variety of awards that can be granted. The most common one is a sustainability award, which simply means that the board is issuing a 1% award which provides protection to the worker to have their case reviewed in case the expected rehabilitation result does not happen. Then you have a whole series of awards that could be made from 1% to 100%.

The way the future economic loss system works, it is very much the focus of successful vocational rehabilita-

tion. What we're seeing is the system beginning to take effect. When we started in 1991, quite frankly, the board was very new to this process of determining future economic loss awards and we were also really starting to gear up our vocational rehab activities. We learned through the process of evaluating cases in those early stages and, more importantly, we have really heightened our voc rehab activities, especially in about the last 18 months. So what we are seeing is a shift in the entire pattern of lost-time claims.

To make the system work effectively, you get injured workers back to work literally before 12 continuous months of temporary disability, and one of the most encouraging things we've seen—I guess there are really three or four reasons for it—is that there is a marginal decrease in the number of injured workers in an accident year going through 12 continuous months. It is gradually dropping, and a drop of 1% or 2% of those cases, say from 8.5 to 7.5, translates into multimillions of dollars in long-term payments.

So the first instance is: Help to return workers to work more quickly in the first place. On the very positive side, I think the credit primarily goes to the stakeholders themselves, the employers and the unions, getting together and setting up modified work programs. I think the chairman mentioned that two years ago there was a handful of modified work programs operational in many employers in the province; right now, there are over 2,000. If these people get back to work, that eliminates in the first instance a future economic loss award itself.

But for the cases that are now coming through the system at the first review—we've only done about 1,500. They're now three years out from the accident, and we are seeing trends that suggest that vocational rehab is again having an effect, in that employers seeing the financial obligations are helping to take many of their own people back to work, and through our own efforts of voc rehab in trying to mitigate the effects of the injury, we're better preparing many of the workers to be able to compete in the job market.

There's the alternative argument of deeming. If you'll listen to labour critics, who will talk about the board deeming, there are two sides to that argument.

But in fairness to the system, a further review will take place on these initial claims another three years out, and it's at that point in time that you'll really see the effects of Bill 162 as it relates to a future economic loss.

**The Chair:** Thank you, Mr Van Clieaf. Perhaps you will have another opportunity to expand on your response, but that was six minutes. We now move to Ms Carter.

**Ms Carter:** Actually, I was about to—

**The Chair:** You're going to give your six minutes



to Mr Van Clieaf, right?

**Ms Carter:** —raise the question of vocational rehabilitation, and I guess you've just been speaking about that anyway. When we were speaking earlier about case loads, did that apply to vocational rehabilitation case workers, or are there separate figures to those?

**Mr Van Clieaf:** The numbers Mr King mentioned were for our vocational rehabilitation case workers.

**Ms Carter:** So the case load is being reduced.

**Mr Van Clieaf:** It has been reduced substantially.

**Ms Carter:** Yes, which is obviously very important, because I think we all realize that the happiest outcome for both the worker and public finances is to have the person get back to work.

I have just recently been sitting, as has Mrs Witmer, on the justice committee, where we've been discussing employment equity. It occurs to me that maybe there is a link-up here because, unfortunately, there will always be some people who will not be totally rehabilitated, who will in fact remain disabled to a greater or lesser degree. As you know, the new legislation says that employers must hire disabled workers in proportion to the numbers in the population.

It seems to me that you are more concerned with the original employer accommodating a worker, but this opens up the whole area of employers in general hiring people who may indeed need to change to something different as a result of an injury. Also, of course, it does require accommodation for people with disabilities. I was just wondering if you felt this would have any positive impact on the problem as it affects the Workers' Compensation Board.

**Mr Di Santo:** Madam Chair, I've been convinced for a long time about the integration of the Workers' Compensation Board with the broader society. In fact, when I was a member of the Legislature, I even introduced a bill that ended up like all private members' bills: on the shelf.

I think the issue here is that the Workers' Compensation Board in Ontario has been charged since 1914 with a task that it cannot discharge. In other words, if you live in Marathon or Schreiber or in northern Ontario and you get injured and there are no jobs available with the employer where you were working before, then your predicament becomes very, very serious.

We know that for a long time, until 1990 when Bill 162 was introduced, there was no obligation at all to hire injured workers or, as you said, people with disabilities in general. That requires a change in approach in our society: that society becomes responsible for people who have disabilities, for people who cannot compete with other people because of their disability, and then society helps them to become productive.

The problem we had in the past was basically based

on a myth, that a person with a disability was a less productive person, a person who would be a liability for the employer. Now, as Sam said, we have 2,000 employers who are in the modified work program.

I want to talk to you briefly about Inco, which was one of the employers that was very resistant initially to the idea of having a modified work program. Today, they have 10% of the workforce made up of people with disabilities, not only injured workers but people with disabilities.

In London, Ontario, Cuddy Food was a company plagued with overcharges because of the incidents, and now is a company which is free from accidents and is receiving rebates because it has a modified work program.

1630

We have to make a further step. I hope the Employment Equity Act will help us in that direction. I think that if public employers, including the government, including municipalities, libraries, the liquor board, have an employment equity program, we can find the jobs; not with the old employer, because sometimes in the construction industry there are no jobs for them, but there are jobs for disabled people. We have to find a mechanism. In other countries, in Europe, they have different systems. For instance, in Germany, they have a quota system which is very, very tough, because they impose 5% employees with disabilities in any employment place with more than 20 people; that is for historical reasons. In other countries, they have systems that encourage it based on incentives, based on grants to the employers who hire people with disabilities or levies to people who don't want to hire.

**Ms Carter:** And of course the point is that if you get the person in the right job, they can do it just as well as anybody else, so there's no problem to employers. We heard from IBM in particular that, having a policy of hiring a lot of disabled people, it finds it has a better workforce.

**Mr Di Santo:** I think at this point in time in the history of Ontario, we can prove that those 2,000 employers who have modified work programs are employers who are happy with their employees, because they save money, they don't pay to the board, and those employees are productive workers, more productive than the other workers.

**Ms Carter:** I see that you employ ergonomic specialists. That's something that wasn't raised when we were having the hearings on Bill 79. I was just wondering if there's a larger place for those people or whether in fact we have enough of them.

**Mr Van Clieaf:** In each of the integrated service units, there is an ergonomic specialist who is available to assist employers with workplace modifications to help mitigate the effects of an injury. As required, they



will visit work sites, give employers advice, working with the labour people, working with management, to try and accommodate workplaces to injured workers, or design them, as the case may be, in the first instance.

**Ms Carter:** So probably we could use more of those to increase the benefits of matching people with jobs that they can do.

**Mr Van Clieaf:** Yes.

**Mr Marchese:** I want to talk briefly about the flat rate as it applies to assessment, because Mr King has talked about this twice. It has raised questions in my mind. It has the appearance of equity, a flat rate, but in my view it would have very unequal results. The way it would do that is that if you charge a flat rate, everybody would pay equally, it seems—that's what it means to me—irrespective of size, irrespective of wealth of that particular industry, whatever it is, and it doesn't recognize that some small employers or large employers might have fewer accidents because they're involved in better safety prevention mechanisms. If all of that is true, then how could a flat rate be fair?

**Mr King:** The first aspect of the question was that different-sized firms would pay unequal shares. The concept of a flat rate is that your percentage taxation would be flat. Right now, the average rate in Ontario is just under 3% of payroll, so you would pay according to the size of your payroll. If you're a bigger firm, you would pay more because you have a larger payroll. That's the first half of your question.

The second half is whether you believe the taxation system is the proper system for creating incentives for safety or whether you think it is a system of either: Do you punish people through a series of fines for violations of safety or do you set up some sort of reward system? I'm not too sure that using a system of taxation which is to pay for work injuries is the best way to reward employers for incentives on safety, or whether that should be a workplace health and safety agency which looks at workplaces. Do you let what is basically an accident, which by definition is something unplanned, something unforeseen—do you let people be punished for an accident or do you try to affect behaviour by indicating: "Here is a defined good behaviour. If you breach that, you will be punished. If you follow it, you will be rewarded"?

I think a different system could be adopted than to utilize the workers' compensation system to reward and punish those in the area of safety. I realize it's problematic from an intuitive point of view, that you think, to use British parliamentary language from 80 years ago, that those who spill the blood should pay the costs of the system. But I think we're at the stage, interestingly enough, where less than half of our work injuries now involve trauma. Half of them involve so-called soft tissue, repetitive strains and things like that, which have more to do with the way work has changed in our

society and the need to ergonomically adapt ourselves to the way the work has changed.

I don't posit it as a solution. I point out to thoughtful people that if we allow our compensation premium to make our industries non-competitive on the international market, then I think we have a serious problem. It may be that people have to think in terms of: If we have to export automobiles, if the compensation costs for those automobiles are significantly greater than they are in South Korea or in Taiwan or Mexico, does the compensation system assist and abet in that unfair competition? I merely indicate that there may be another model that is better in terms of this international competition, which we're all very new to. I don't believe we have examined some of our social insurances to take into account that newness.

**Mr Marchese:** But if we talk about the rates they pay as being non-competitive or being a real problem for these companies because it drains a lot of the resources to pay into this assessment scheme, why wouldn't that in itself be an incentive for employers to put into place good, healthy, safe workplaces? Why wouldn't they be doing that? Why do we as a government think of something that would provide some other kind of incentive or some other way of doing business, when they themselves should realize on their own that this is costly? In addition, it's not only the assessment rates they're paying, but also having on staff highly paid people who bring a case forward to the compensation board to attack, often, workers; at least, if not attack, to try to defeat a case that a worker has brought forth.

**Mr King:** Again, I think you've responded to my challenge, which is to say, can't we think of a better way to deal with this than through the compensation system? One of the things you will note, if you're a student of workers' compensation in Ontario, is the highly adversarial nature of the program. I think it's approaching evil that we design a program that would cause employers to fight with their workers over a compensation claim because it may result in a penalty to an employer if a worker files a work injury. That in effect is one of the outcomes of the present experience rating program, that employers become so conscious of penalties that they will actually hire lawyers to fight claims of workers when in fact on another day they would go to bat for that injured worker if it was for an insurance claim under group life.

I think Ontario has to seriously consider whether or not the compensation system and the incentives we have built in are leading to a greater adversarial system in Ontario at the workplace plant floor. What Ontario requires right now is the combined effort of workers and employers to be competitive on the international scene. I think our compensation system is detracting from that need to be competitive.



**Mr Marchese:** I will pursue that again tomorrow, but my colleague would like to ask a question.

**Ms Murdock:** I'm going back to the action plan. Mr Di Santo mentioned the 2,000 workplaces where the employers have instituted a voc rehab program. I've always tied, as you know, because we've had this discussion before, vocational rehab and medical rehab. Personally, I think you should be looking after client services and that there should be somebody specifically designed to look after voc rehab and medical rehab, but I haven't won that battle yet.

As to the section you provided to us on the action plan, the section 3 task force recommendations on voc rehab, looking at everything that's in there, I see that the developmental training for work site analysts won't be undertaken until the third quarter, correct?

One of the problems we had when I was a CA was that we couldn't get anybody from the board to go to a workplace to even look at the job site to see why the accident occurred in the first place. In many instances, if the work site had been changed, the accident wouldn't have occurred. Of course we get into the whole health and safety argument, which is that if more employers spent more money on health and safety—Inco is a perfect example—you'd have fewer accidents.

I want to get into the evaluation process of voc rehab, the functional abilities evaluation, which is a bugaboo that I will probably never like, and the whole work trial aspect of voc rehab. I'll use Sudbury as an example because that's the one I know best.

In the work trial, if the injured worker is able to work but the WCB wants to make a determination about what kind of work they can do, they are—and I say this—stuck in the CNIB woodworking workshop. I have no disparaging remarks about the CNIB; however, that's where the majority of them are placed. They sit for their two months and they count bolts and nuts, and an evaluation is made on them. Inevitably, at least thus far, we're finding that at the end of getting this functional abilities evaluation, it determines invariably that they have to go back to work, whether or not they're really ready or can do the job they were doing pre-injury.

I'm wondering, on the basis of what's on pages 3-3 to 3-5, what you're finding and how that fits in with the experience and whether any of this is really going to be changed.

**Interjection:** In five minutes.

**Ms Murdock:** Actually, three minutes.

**Mr Van Clieaf:** During the course of these proceedings, it's been mentioned that Katherine Rellinger has been brought on board to take a close look at our vocational rehab, and there are interlinks with medical rehab attached to that. For instance, the very thing you're mentioning would be an agenda item for Katherine to concentrate on; that's very much what was

linked to looking at this in the third quarter. Actually, she came on a little later than was originally forecasted; in fact, we're probably going to really get into that in the fourth quarter, once she's had an opportunity to review it.

But the functional abilities evaluation really comes at the second stage of voc rehab. Under the board's hierarchy of objectives, the best hope for success is with the accident employer, in two ways. First, there's just the moral obligation, the ethical obligation, they have to the wellbeing of their people, and I believe most employers truly do have that. The other reality is that the reinstatement provisions in Bill 162 put obligations on the employer to do that. You really only start—

**Ms Murdock:** But truthfully, it's within time frames, though.

**Mr Van Clieaf:** Yes, there's no question it's within time frames. If you want to examine the statute, there are holes wide enough to drive trucks through it from that perspective, and it could be tightened up. But once you're past that stage, if you're not going to be successful in returning to the accident employer—and sometimes it's the injury itself that makes that determination. But it's really a tool to help the workers sort out what their aptitudes are, along with, literally, the functional ability they're going to have, flowing from the disability. It's strictly a tool that's used, ideally, by the case worker, the injured worker, the injured worker's representative and the injured worker's physician to try to help map out the—

**Ms Murdock:** I think we have to stop. I'm getting the eye from the Chair. Thank you very much.

**Mr Mahoney:** The question I asked at the end of my last round was, will you reopen and revisit the flooring issue, Mr Di Santo?

**Mr Di Santo:** No.

**Mr Mahoney:** You will not. Will you debrief Mr Mead—maybe this is appropriately to Mr King—or have somebody debrief him to answer the questions that I've placed on the record and that he has placed in your hands for some time? Will you at least undertake a debriefing of the process?

**Mr King:** I'm certainly not against having people from or representing the Workers' Compensation Board meet with Mr Mead.

**Mr Mahoney:** So you will arrange a debriefing. Is that what I understand?

**Mr King:** That is correct.

**Mr Mahoney:** To go on to a couple of other issues—perhaps there will be more on that later—the issue of flat rates that I think Mr Marchese was questioning and discussing raises a bit of a double-edged sword, in a sense. A flat rate for all industry throughout the province initially smacks of public auto insurance, shall we say, in that the big debate in public auto



insurance was that everybody's going to get a standardized rate and the good drivers will be penalized for the bad drivers. That concerns me about a flat rate, although a flat rate, like a flat tax system, might be more understandable to the users and the payers of the system.

But I think you used the comment, in relation to earlier comments I made about changing the system, that you'll get the guys with all the dirty rags coming to the government agency and, in the same sense, those people with all the dirty rags in the basement will be getting a much cheaper ride than perhaps they should. Does it not make sense, whether it's a 100% government agency, as it is today, or whether it's a combination of private sector and government agency, to set your rates based on experience ratings?

**Mr King:** Our present rate structure or pricing model is based on experience rating. It's widely used across Canada in the Canadian workers' compensation system, and it tries to reflect the rate for an industry that deals with the number, the incidence and the severity of accidents in that industry. But it has many shortcomings; for instance, occupational disease develops over 20 or 30 or 40 years, so you don't necessarily prevent occupational disease through an experience rating program, but you still have to pay the costs for it.

A second problem is that the most seemingly minuscule of injuries can result in enormous costs. Under an experience rating system, a moment's inadvertence, which has no blameworthiness to apply to that employer but may cause a fatality, occurs just through sheer accident, and very significant costs and penalties would arise under an experience rating would occur.

I am merely trying to put on the table for some discussion that maybe we should cover the behaviour of employers as it respects safety under a different method than the taxation for paying for work injuries. It may be under regulation; it may be under rewarding those who take workers back to employment rather than making them go out and become a burden upon the compensation funds or the funds of other employers, which in itself is a way to rate experience. It isn't just straight measurement of dollars, which the present system does, to a great extent.

1650

**Mr Mahoney:** I think the point Mr Marchese was making, if I could just interrupt you, on the issue of incentive, was, how do you develop a system that's understandable and affordable and yet has incentive built into it, notwithstanding the fact that there are accidents that will occur? In fact, if I could take it a little further, if there are other companies in the business of providing compensation insurance, it may well be that a company which had a simple accident with workers' compensation covering it would not be happy with its increased premiums and would then be allowed to go to market and explain to the other companies,

which had not borne the burden of the payout—whether that's fair to workers' comp or whichever the company may be, but that's the way the insurance system works: You have an opportunity to go out and explain that it purely was an accident you had no control over and get competitive bids.

I'm somewhat attracted to a flat rate, but I see some real pitfalls in not recognizing—you talk about illnesses. If a company's dealing in asbestos or a company's dealing in bad air conditions or something of that nature, or the mining industry has serious lung problems, whatever the particular issue happens to be, it would seem to me that the rate for a mine should be substantially different from the rate for a small manufacturer in Scarborough that doesn't deal with any kind of toxicity at all.

**Mr King:** I think it's a mistake, though, to think that your rate in a mine might be significantly higher than a rate in a small manufacturer. One of the problems you've got is that some of the small manufacturers that we depend on in Ontario to generate our wealth are charged extremely high premiums by the workers' compensation system based upon that experience.

My own years in Canadian workers' compensation teach me that we in Canadian compensation have charged 25% to companies to do work; in other words, we've charged them a tax of 25% of the payroll, in some cases. That's in shaft sinking, some of that very arcane work.

**Mr Mahoney:** That's a good description of it: 25%.

**Mr King:** Yet it doesn't seem to affect or influence their behaviour in safety, because there are still people killed and very seriously injured. I'm merely questioning the use of a tax system, which is to pay workers for injuries, to effect proper safety behaviour on the part of employers, because in Ontario it has led to a different behaviour called claims management or, at the worst, I suppose, suppression of claims, of which there are many documented cases. I think rather than create a fight between workers and employers, we use our creativity to think of a different model to effect positive safety behaviour. It's difficult, I agree.

**Mr Mahoney:** I'm glad you refer to it as a tax system, because in essence that's what it is; there's no question about that. Help me out with this: a question about some \$40 million in expenditures that the board undertook over the past year or so with regard to a new computerization program dealing with the rate adjustment program. Can you tell me what that's all about?

**Mr King:** The board, beginning in about 1989 or 1990, began to work, at the request of the employer groups, on a new cost and pricing model or a new assessment rate model. Involved in the total expenditure in developing that model was a significant amount of money paid to actuaries to help design a pricing model.



A significant amount of money was paid to other consultants to help the board deal with the request of employers that we provide a different model for assessing employers. I'd indicated to you that right now we have something like 215 or 216 rate groups; a year ago there were 109, so the impact of the new pricing model was to virtually double the number of rate groups.

In order to implement the new pricing model or the new assessment model, the administration of the board felt it was necessary to provide a new computer system, a new system which has an acronym called RESET, revenue enhancement system for tomorrow's environment, or some such acronym.

Because of my experience with the failure rate or error rate in the system which pays workers' compensation benefits, the WBS system—I described a 40% error rate—I insisted on the implementation of a quality assurance aspect to the development of the computer system. That quality assurance system basically said, "Do it right the first time or you can't do it"; in other words, there was an independent check on whether the system was being developed properly. That quality assurance indicated that there was a problem in the system development late last summer, the summer of 1992.

I had experts called in from outside the board to look at the systems development. Those experts reported to me in October of last year that there were serious quality problems with the systems development. That led to a very serious accountability issue being raised among the senior management of the board: There were four senior employees of the board let go in October of last year.

**Mr Mahoney:** I don't understand. Is this all part of the \$40 million? Is this a separate budget item that we could get a page on, say?

**Mr King:** It's late in the day, but tomorrow I can certainly provide you with the detailed cost breakdown of the aspects of that, yes.

**Mr Mahoney:** How much of that would have been spent on consultants, and the types of consultants? Let me be straightforward and tell you my concern. My concern is that there appears to have been a lot of money spent on a revenue strategy plan for both hardware and software and consultants and things of that nature; I don't quarrel with that, because I don't have figures to go one way or the other. But that plan has been put off, and there's some nervousness, particularly in the employer community, about the hammer that's going to fall. I just wonder if there are some data or information you can provide to this committee so that we as MPPs and our colleagues in our different caucuses can respond to people with when they call.

**Mr King:** Yes, I'll provide you with details on costs tomorrow. I'll briefly summarize the end of this.

I went out and met with the employers, who were very interested in the implementation of this plan last October. I reported to them on the quality assurance failure; I reported to them on the accountabilities I had exacted as the manager of the compensation board; I reported to them on the plan to complete the process.

You questioned the privatization. We went out to tender to help us design and build the system, so it is not now being built in-house, and I can give you assurances tomorrow, based upon that tendering process, as to the timeliness and the implementation of that system.

**Mr Mahoney:** You went out to tender to Canadian companies, I hope.

**Mr King:** Yes. They may not have been Ontario companies.

**Mr Mahoney:** I wanted to—but I'll deal with the letter from Mr Miclash tomorrow. Mr Bradley has a question.

*Interjection.*

**Mr Bradley:** I'm an adviser to Mr Mahoney.

**Mr Mahoney:** He rolls up the snowballs for me to throw.

**Mr Bradley:** I want to get this on record. Have you said to the committee, in effect, that the government cutbacks—at least, the so-called social contract provisions—which have been applied to the WCB have in fact not inhibited your ability to provide service to your clients?

**Mr King:** We were about three or four months ahead of the government in determining that we had to manage better with less in Ontario, so we had publicly announced to all of our employees that our 1993 plan was going to require a significant reduction in total resources while maintaining service as the main priority. So we've been through a nine-month exercise of redeploying resources away from non-core functions to the solid middle of our business, which is compensating workers, rehabilitating workers and servicing the employers from whom we collect money. I can give you assurances, as the administrator, that we are providing better service, even under the terms of the social contract.

1700

**Mr Bradley:** So if the miracle of 1990 is in fact given away and a new administration were to be elected at the very last minute of 1995, you would not be complaining if that administration were to continue to allocate the same resources or to impose the provisions of the social contract on you? You would not be critical of a new administration doing that, may I presume?

**Mr King:** I think that's a political question that I'll defer to Mr Di Santo, given the discussion that's occurred earlier today.

**Mr Di Santo:** If I may answer briefly, in the last two years we had a flat-lined budget. Also, I think we said that there has been a decline in injuries in the last two years so we don't forecast any increase in administration expenses. So, unless the Legislature and your legislators impose on us any changes in the act, we can foresee that we can live with the present budgetary arrangement, unless there are unforeseeable new circumstances: If the cost of living goes up 5%, then we have to deal with that, but under the present circumstances, we don't see any change.

**Mr Bradley:** Would it be fair to conclude that at least part of the decline in the business of the WCB may be attributed to a decline in economic activity in the province, particularly in those areas where there may have been some significant injuries occurring: the construction industry and other industries where the danger to workers is greater than perhaps in other industries? Would you attribute some of that to the decline in economic activity, just as we'll be able to attribute a decline, hopefully, in the pollution count due to factories closing down?

**Mr Di Santo:** Absolutely. I said that in my introductory remarks. The three major contributors to the board are construction, manufacturing and mining. In these three sectors we lost 294,000 jobs in three years, and obviously, that has an impact on the performance and on the accidents that result.

**Mr Bradley:** I'll direct this to Mr King. You said that some people in the past, presumably before you got there, got their jobs or at least there was pressure for people to get their jobs with the WCB from politicians, presumably the governing party. Would you elaborate on that? It's alleged that happened at the Liquor Control Board, but I could never see evidence other than the fact that the same people who worked in the liquor store were the same people who were on the executive of the political party in power.

**Mr King:** Any evidence I might have of that is anecdotal only, and I don't believe I should repeat

anecdotal evidence that came to me through either previous chairs of the Ontario compensation board or previous vice-chairs of administration. I don't have firsthand knowledge of that.

**Mr Bradley:** I detected—I could be totally wrong—a pretty strong assertion on your part at the time, and that strong assertion, you're saying, was based only on anecdotal evidence and not on any hard evidence out there. That's interesting to know.

The last question I would have, because I think my time is very limited, is the problem that the WCB encounters with the cooperation of members of the medical profession, and any of the three of you who wishes can answer. Some members of the medical profession will say it's impossible to deal with the board; I don't know whether that's true or not. But the injured worker is caught in between. What do we do with doctors who will not cooperate by providing in an expeditious manner the necessary evidence so that there can be a conclusion drawn in the case? The company may want this settled, I don't know, but certainly the worker does, and very often the worker phones the constituency office to ask, "What are you going to do about this?" Of course, we can't instruct doctors. How do you handle those cases where doctors are tardy or outright refuse to provide the necessary information in dealing with the board?

**Mr Van Clieaf:** In the first instance, if we're finding physicians who are not providing us with needed reports or reports on a timely basis, our chief medical officer, Dr Barbara Whyllie, will get on the telephone and speak to them about it or go and visit them, and in most instances, that sort of discussion results in the desired result. We can take it beyond that, if that is necessary, by coming up with other sanctions to try to improve the performance.

**The Chair:** Thank you. Tomorrow morning we will commence with the third party in the order of rotation. I thank you for your cooperation today.

The committee adjourned at 1707.









## CONTENTS

Tuesday 14 September 1993

### Workers' Compensation Board ..... A-153

Odoardo Di Santo, chair  
 Brian King, vice-chair, administration  
 Rumina DiValentin, analyst, vocational rehabilitation agency  
 Nigel Hunte, claims adjudicator, Toronto East integrated services unit  
 Linda Jolley, senior vice-president, strategic policy and analysis  
 Sam Van Clieaf, senior vice-president, client services

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

**\*Chair / Président:** Marland, Margaret (Mississauga South/-Sud PC)  
**Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)

\*Bradley, James J. (St Catharines L)

\*Carter, Jenny (Peterborough ND)

\*Cleary, John C. (Cornwall L)

Curling, Alvin (Scarborough North/-Nord L)

Frankford, Robert (Scarborough East/-Est ND)

Harrington, Margaret H. (Niagara Falls ND)

Mammoliti, George (Yorkview ND)

\*Marchese, Rosario (Fort York ND)

\*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)

\*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### Substitutions present/ Membres remplaçants présents:

Arnott, Ted (Wellington PC) for Mr McLean

Haslam, Karen (Perth ND) for Ms Harrington

Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Curling

Murdock, Sharon (Sudbury ND) for Mr Mammoliti

Winninger, David (London South/-Sud ND) for Mr Frankford

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service



A-12

A-12

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Intersession, 35th Parliament

## Assemblée législative de l'Ontario

Troisième intersession, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 15 September 1993

# Journal des débats (Hansard)

Mercredi 15 septembre 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Workers' Compensation Board

Commission des accidents  
du travail

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 15 September 1993

The committee met at 1014 in the Huron Room, Macdonald Block, Toronto.

## WORKERS' COMPENSATION BOARD

**The Vice-Chair (Mr Allan K. McLean):** I understand that the Chair and some other members are on the Gardiner in a traffic jam, so Dan Waters has suggested that we proceed with the unfunded liability and have a briefing from the chairman about that, if that's agreeable to the committee. We can proceed, Mr Di Santo.

**Mr Odoardo Di Santo:** Thank you, Mr Chair. I will be introducing our chief financial officer, Mr Glenn Cooper, who will report on the unfunded liability.

I want to premise just briefly that we are very concerned about the unfunded liability because it is a potential problem for the board. If one reads the media reports, there's an impression that this board is out of control, and every once in a while those statements are made.

I'd like just to inform the committee that from 1985 to 1993, the situation has not deteriorated. In 1985 the board was funded for 32%; in other words, if the board had to pay all the pensions and all other obligations we had, we could pay 32 cents for each dollar. In 1993 we can pay 38 cents for a dollar.

Does that mean we can just relax and do nothing? No. That is not the case. It's like when we talk about a glass: Is it half empty or is it half full?

In 1993 we have made a very serious attempt. We came before the standing committee on resources development in 1991 and we made a commitment that we would do a number of things. We would do an operational report, we had a task force, we have an action plan, and we are rationalizing our internal operations, making them more efficient. And we are showing the savings, we are showing the savings year after year, despite the fact that we had a flat-lined budget, which means that in real dollars we've spent less money to produce better service. We were able in 1993 to scale down the deficit from \$1.2 billion in 1991 to probably \$400 million. We don't know the final figures because we are in September, but it will be in the neighbourhood of \$400 million.

If you read the Globe and Mail the other day, the headline said the unfunded liability grew by \$400 million. Of course the Globe and Mail could have said the board slashed the deficit by \$800 million: That's exactly the situation; that's what we did. We were able to reduce the deficit substantially in two years, and we are committed to do that next year.

We are concerned with the funding of the board, not

only with the unfunded liability, because that's a misnomer. If you talk only about unfunded liability, you talk only about one aspect of the funding of the board. What we have to look at, what the government has to look at and, with all respect, what the Legislature has to look at is, how we are going to fund the board? That was the question we posed in February 1992, when we released a paper on how to fund the board; we released a WCB funding strategy.

After analysing the present situation and of course going back to 1984—that was the crucial year when this situation was for the first time faced in a coherent way by the government and by the Workers' Compensation Board, when the government called Wyatt, a consultant, and Wyatt outlined a strategy how to retire the unfunded liability in 30 years, from the year 1984 to the year 2014. If we don't look at that strategy, not only do we not understand how the funding of the board is working but we do not understand why the unfunded liability is increasing.

We will make available to you a funding strategy paper, and you will see in the paper that when Wyatt developed the strategy, they were assuming that the liability would increase from \$4.3 billion in 1985 to more than \$40 billion in 30 years. In the meantime, the assets would increase by the same amount and in 2014 you would balance liability and assets, so the liability would disappear.

1020

But what many people do not understand, and obviously the media never understand because they never do any research, is the fact that the unfunded liability, regardless of the growth of the assets, would increase until the year 1998, and of course to retire the unfunded liability was based on a gradual increase of the assessment rates. The assessment rates would have been \$3.18 in 1991, \$3.20 in 1992, \$3.44 in 1993, \$3.68 in 1994 and \$3.88 in 1995. Despite the fact that Wyatt had forecast this growth in rates, the unfunded liability would have grown until the year 1998.

The whole strategy was based on normal economic cycles. What we had in 1990 was a protracted and very serious recession, and we are still not out of the recession because the economy is not performing. We told you yesterday that in three years' time we lost 284,000 jobs in the sectors that most contribute to the board: manufacturing, mining, forestry and construction.

Therefore, the board of directors, which is representative of the stakeholders, the workers and employers, came to the conclusion that, given the severity of the



recession, we could not afford to increase the rates according to the Wyatt report, the strategy adopted in 1984. In fact, the rates not only did not increase but they declined, and in 1993 the rates are \$2.96, because we came to the conclusion that industry, the manufacturing sector, which has been ravaged by the recession and by free trade, with all the shutting down in south-western Ontario—

**Mr James J. Bradley (St Catharines):** Is that due to free trade?

**Mr Di Santo:** Well, most of the branch plants, according to Statistics Canada, that have been repatriated. In your riding, I think Campbell Soup shut down because it has a plant in New York state. It's not only due to free trade but also due to the recession, obviously, because the recession has been a major factor in affecting the manufacturing sector; also, I must say, due to other reasons, because the economy is changing and some sectors that were crucial in the development of the economy in the past are not as important any longer as they used to be.

For those reasons, we thought it was unacceptable to the Ontario employers to escalate the rates at the level that had been developed in the strategy; therefore, we did not increase the rates but decreased the actual rates. Despite that, we achieved what I think is a phenomenal result: We were able to have the lowest increase in the 10 years since 1984.

On this premise, I'd now like to ask Mr Cooper to outline for you the unfunded liability.

**Mr Glenn Cooper:** My name is Glenn Cooper. I'm chief financial officer of the Workers' Compensation Board. I think our chairman has reviewed for you the last 10 years of the history of the unfunded liability. Perhaps I will explain in a little more detail what an unfunded liability is and some of the progress the management has made in trying to control the unfunded liability.

First of all, the unfunded liability represents only a calculation in respect of those employers in the province which are collectively liable. There are some employers in the province which are individually liable for their own liabilities, and we assess them and pay the awards to the injured workers. But for the collectively liable employers, we have to set assessment rates to pay off our claims.

The unfunded liability represents the difference between our assets and liabilities. Our assets are today approximately \$6 billion. They represent investments held to pay off future claims. Our liabilities are approximately \$17 billion. Those liabilities represent what we anticipate the future payments for existing claims today will be.

As you know, injured workers can receive a pension for life, and most of that \$17 billion is lifetime pen-

sions. Approximately \$10 billion of the \$17 billion represents pensions that will be payable for life to injured workers. These have already been adjudicated. It's been mentioned earlier this week that there are approximately 170,000 injured workers receiving these pension payments, and these are the largest payments we make on a monthly basis. As I say, they total about \$10 billion, and they are fully indexed for inflation. Our estimate of the present cost of all our future claims is \$17 billion. The difference between those liabilities of \$17 billion and our assets of \$6 billion is the unfunded liability, which today is approximately \$11 billion.

With the \$11 billion, as Mr Di Santo outlined to you, there is a strategy to pay that off by the year 2014 that was adopted back in 1984. The strategy called for a significant increase in assessment rates. At the time of the study in 1984, assessment rates were found to be 45% too low. They had to increase by 45% to match what the cost was of current claims coming through the system, the administrative cost of running the board and to cover the funding of the unfunded liability. As Odoardo said, at that time the unfunded liability was estimated at about \$4.3 billion.

Obviously, rates couldn't be increased by 45% in one year, so what we saw was gradual increases in rates. In fact, in no one year did rates increase by more than 15%.

With all of this, and legislative changes through the 1980s, the unfunded liability has grown to \$11 billion. In no year did the assessment rate go up more than 15%, and in fact in many years it was lower than that. The highest the assessment rate ever was was \$3.18 per \$100 of payroll, or 3.18%, and as was mentioned earlier this morning, the rate will be approximately \$2.96 in 1993.

I want to now turn my comments to what has transpired in the last few years. As the new administration came to the board in 1991, we saw that a recession was occurring in the province. In early 1991, people thought the recession would be relatively short-lived. As time went on during 1991, people realized that this was not a short recession, that many structural changes were taking place in the economy. Both the manufacturing and construction sectors and the primary resource sectors, which represent about 75% of our revenue base, were being particularly hard hit by this recession. It was our view that some of this would not return quickly. In fact, it caused us to re-examine the funding strategy of the board.

1030

In February 1992, after consultation with a number of the stakeholders, we issued a funding strategy paper, which again we've sent out to stakeholders for consultations, on some of our views. The questions we raised were:

Whereas the board was faced with at that time, at the



end of 1991, an unfunded liability of about \$10.3 billion, we expected, what is a fair way to fund that? I think most people agree that you would like to be fully funded, in other words, that your assets would be equal to your liabilities, but when you're in situation where your liabilities exceed your assets by \$10.3 billion, what is the correct way to put that in balance, or do you really have to put it in balance? The question is, who has got to pay for that?

All of our revenue comes from employers of the province except for our investment earnings, which is a very small part of our revenue. Would it be fair that that \$10.3 billion be paid by the employers of this province over the next 20 years, up to, say, 2014, when the original funding strategy said we would be fully funded? Do you have to be fully funded? As was said earlier this morning, if we were fully funded in the year 2014, we would have about \$40 billion of assets and \$40 billion of liabilities. Do we really need \$40 billion of assets? We have \$6 billion now. If we have enough funds on hand to pay claims as they come due, is that enough? These are some of the questions we issued for stakeholders back in early 1992.

We received a number of responses to our paper. The paper has been discussed by our board of directors, as well as the comments we've received. It is now under review by our board of directors in their strategic planning exercise. Also, the Premier's council, I'm sure, is reviewing some of the funding issues we have raised.

One message was clear when we went out to consultation on our funding issues. Our stakeholders felt we could be more efficient in managing our business, and we agreed. In 1992, we reduced the increase in the unfunded liability by about \$600 million. The unfunded liability went up \$1.259 billion in 1991 but only \$661 million in 1992, and, as Mr Di Santo said earlier this morning, we anticipate that about \$400 million will be the increase in 1993.

We have significantly reduced the growth of that unfunded liability. This has been done without increasing assessment rates; assessment rates are down. As I said earlier, they peaked at about \$3.18 for \$100 of payroll and they are approximately \$2.96 now, so that's almost a 10% reduction in rates.

We have reduced our costs, both administrative costs and benefit costs. We're not being tighter on claims to injured workers. What we're doing is being more effective in integrating injured workers back into the workforce. If we can be more effective in returning injured workers to employment at an earlier date, that will reduce our benefit costs, and that's one of the things that Bill 162 was attempting to accomplish: helping injured workers integrate back into the workforce.

**Mr Di Santo:** We are in the hands of the committee. At the beginning it was agreed that, as not all members

were here, we would make introductory remarks. If you wish, Mr Cooper can finish or you can ask questions. We are in the hands of the committee.

**The Chair (Mrs Margaret Marland):** Thank you, Mr Di Santo. We appreciated having the briefing when all members were not yet ready to ask questions. Now that it is 25 minutes before 11, maybe we will start the rotation, and some of the completion of the comments may come as some of the answers to the questions also.

**Mr Di Santo:** Perhaps if it's possible, we'll wrap up in a couple of minutes.

**Mr Glenn Cooper:** I was just about finished with my comments. We are now into planning for 1994. We see 1993 as another significant reduction in the increase of the unfunded liability and we expect that 1994 will see a similar decrease, so we are making significant progress in reducing the annual increase in our unfunded liability. We expect that there will be a number of comments coming out of our strategic planning exercise from the board of directors that will help us further control the increase in the unfunded liability. I'll leave it there.

**Mrs Elizabeth Witmer (Waterloo North):** Thank you very much for your presentation. I'd just like you to briefly tell me, as we're dealing with the unfunded liability today and it stands at \$11 billion-plus: You've indicated it's going to decrease, yet we have heard that it could increase to \$31.5 billion by the year 2014 and Mr Di Santo said it could be \$40 billion. What is it, in a nutshell, that you're going to be doing that is going to prevent that from happening?

**Mr Di Santo:** Can I clarify? I think we are talking of two different things. You said that the unfunded liability can increase to \$31 billion.

**Mrs Witmer:** That's right. That was discussed at the Premier's council.

**Mr Di Santo:** I want to rectify that. What I said was that based on the Wyatt report on the strategy developed in 1984, the liabilities will increase up to \$40 billion and the assets would increase up to \$40 billion in the year 2014, and at that point there will be no unfunded liability because assets and liabilities will be the same.

**Mrs Witmer:** Okay, but let's get back to what the Premier's council discussed at its meeting on September 7, where it said that assuming no new programs and with conservative cost assumptions, it can increase and will increase to \$31.5 billion by the year 2014. This projection is based on data provided by the board, and I want to know, what actions does the board intend to take in order to stop this unacceptable escalation in the unfunded liability?

**Mr Di Santo:** Mrs Witmer, I think we have to understand that this assumption that was developed for the Premier's council is based on the fact that we do nothing between now and the year 1999. In fact, if you



look at the figure itself, \$31 billion, now we are at \$11 billion. For \$20 billion in six years, we should increase how much? That's \$2.5 half billion a year, which is totally unrealistic, because we are telling you, with the modest measures that we are adopting in the board with the cost-effective measures, we are increasing only by \$400 million the unfunded liability in 1993. So this is an assumption that is based on the fact that we do nothing; in other words, that we don't do rehabilitation, we don't do any rationalization of our services.

1040

**Mrs Witmer:** And also that you don't do any new programs, and I know there are some new programs being anticipated.

**Mr Di Santo:** There are no new programs, madam.

**Mrs Witmer:** Take a look at what's being suggested in the expansion of entitlement: chronic stress.

**Mr Di Santo:** In my introductory remarks, I think I said that when we came to the board, we had a discussion paper and the Honourable Mr Stanbury and Mr Goodison had public hearings, and the board of directors has decided that we do nothing. No decision has been made, so there is no new program that is being developed at this point in time. The question was referred to the strategy planning, where the board of directors, as a representative of the major stakeholders, is dealing with the question, but there is no new program at this point being developed.

**Mrs Witmer:** So the only thing you would like to see at this point is universal insurance and a flat rate.

**Mr Di Santo:** Don't put words in my mouth, because that may very well be wishful thinking. The only thing I'd like to see at this point is what we have been doing until now. We came before the Legislature, we report to the Legislature. We were told by the standing committee to do a number of things, an operational review, and we did it. We are coming to you now and we are telling you that we have an action plan, and we think that with the action plan we will be able to introduce into the system cost-effective measures that will allow us to reduce the unfunded liability. We are telling you that we are committed to reducing our administration expenses, and we will show in the budget next year that we will do that.

Also, I must say that there are some decisions that go beyond our purview, and those are decisions that are political decisions that have to be made by the government; not only by the government but the social parties, by employees—

**Mrs Witmer:** Don't expect the government, because the government keeps saying it's arm's length from you and doesn't want anything to do with the WCB. They don't want to be held accountable.

**Mr Steven W. Mahoney (Mississauga West):** That's what they say.

**Mrs Witmer:** That's what they tell us when we ask questions in the House.

**Mr Mahoney:** Bob Mackenzie says it in writing.

**Mr Di Santo:** I cannot take part in this, Madam Chairman, because it's a lively exchange between parties.

**The Chair:** I think we should let the chairman continue. It's nice to have the friendly exchange—

**Mr Di Santo:** I won't take sides, because despite what Mr Mahoney said yesterday, we are humble servants of the Legislature, so we are here.

**Mr Mahoney:** What did I say yesterday?

**Mrs Witmer:** I would just like some clarification. The clarification I want is that I heard you make some reference to the chronic stress issue. Are you telling me that the status of the workplace stress proposal has been abandoned? What is the status there?

**Mr Di Santo:** It has been referred to the strategic planning, which is a group of representatives of the employers and the workers on the board of directors, and they are dealing with those issues.

**Mrs Witmer:** So it hasn't been put on the back burner; it's still a real possibility.

**Mr Di Santo:** I don't know if it's a possibility; it's a decision that the board of directors has to make. But no decision has been made at this point; in other words, from the point of view of the administration, we have no new program in place. Next year there will be no new program. That's what we can commit to you.

As far as the other problems are concerned, the funding, you know very well what has been discussed at the Premier's council. Those are issues that require a consensus of the parties. I don't think any government of any colour at this point in time can make decisions favouring one group against another group, because it's impossible. The workplace belongs to the workers and belongs to employers, so they have to find a consensus on how to deal with the strategic issues, and that's what's happening.

As I said yesterday, you have some of the major players in Ontario. You have the major union representatives, you have the chairman of General Motors, you have the chairman of Canada Trust, you have the chairman of Stelco, you have the chairman of Noranda. They are the members of the Premier's council and they are dealing with those issues.

**Mrs Witmer:** Do you know what's interesting about that? I believe there's a glaring omission. The omission is, where is the small business representative on that council?

**Mr Di Santo:** Madam, I neither set up the council nor am I a member of the council. You're asking the wrong person.

**Mrs Witmer:** That's right. I hope whatever deci-

sions that council makes will reflect the interest of the small business community as well as the large business community. You can tell me what you want to about the unfunded liability, but I will tell you, the possible expansion to the \$31.5 billion really terrorizes the business community, and I hear you saying that you still might implement the workplace stress proposal.

**Mr Di Santo:** I didn't say that.

**Mrs Witmer:** You said it's still under consideration. We know that could add \$178 million to the cost to the WCB. It's that type of uncertainty that strikes fear into the heart of the employer and the employee community.

**Mr Di Santo:** With all respect, I didn't say that and I want to put very clearly in the record that I didn't say we are going to implement or that we are in the process of implementing or that we are considering. I said that we had hearings. We had a totally opposite reaction from the workers' side and employers' side which didn't allow the board of directors to find any possible consensus on that issue. That's why the question has been sent to the strategic planning, and the strategic planning has to consider whether in the next number of years the board of directors has to deal with those questions and how it has to deal with those questions. I have my personal bias, but that's not my decision. It's a decision of the two workplace representatives: workers and employers.

**Mrs Witmer:** I can appreciate that, but I can tell you, it's issues like this that continue to alarm the community, the employers in particular who are paying a lot of money in payroll costs to subsidize the WCB. They have asked that a complete moratorium be put on new policies, and I don't see that happening. I think there's still a tremendous problem.

I'd like to go on to another issue. It has to do with the unfunded liability, but in a different way. As you know, the board was able to save some \$10 million due to social contract savings. It has been reported that under the terms of the social contract legislation, the board would be required to give the government this \$10 million, and I understand that the board would prefer that the \$10 million be put towards the unfunded liability. Obviously, that is the only fair thing to do, because it's the employer community that funds the WCB, not the government, yet the government is suggesting that this \$10 million be handed over to the Treasurer. Can you tell me if that issue has been clarified and resolved with the Treasurer?

**Mr Di Santo:** Mrs Witmer, I read the same reports. Of course the basis of that report was that the social contract basically involved all public sectors, the broader public sector, and the board is one of the components of that sector, but we have not received any official request from the treasury.

**Mrs Witmer:** You have had nothing in writing?

**Mr Di Santo:** Nothing.

**Mrs Witmer:** You have had no verbal communication?

**Mr Di Santo:** I came back from holidays just last week, so I haven't had the chance to communicate with the Minister of Labour until this moment.

**Mrs Witmer:** Has Mr King communicated with the minister on that particular issue, or any other member of the WCB staff? Has there been any communication with the minister regarding this \$10 million?

1050

**Mr Brian King:** I met with the Deputy Minister of Labour to point out concerns we might have if there was any regulatory change brought in that would have required the WCB to forward \$10 million to the consolidated fund, and the Deputy Minister of Labour brought that matter to the attention of the minister.

We are not required to pay \$10 million to the consolidated fund. Neither the statute which brought in the social contract nor any regulation I have yet seen would require us to pay \$10 million. If regulation is brought in to require it, our board of directors has given us instruction to seek external legal advice as to our status as a board on such a matter. But there has been no direction, that I'm aware of, to myself or to any member of the staff of the WCB, on turning \$10 million over to the consolidated fund.

**Mrs Witmer:** Would it be your plan then, Mr King, given that I've heard you say that no one has asked you directly for that money, that this would be applied towards the unfunded liability, the \$10-million saving?

**Mr King:** If we are not required to pay \$10 million to the consolidated fund, it would merely mean \$10 million that wouldn't lead to an increase in the unfunded liability. Yes, that's correct.

**Mrs Witmer:** Then it would be discharged in that respect.

I'd just like to review again, what is the average assessment rate this year?

**Mr Di Santo:** It's \$2.96.

**Mrs Witmer:** And last year it was—

*Interjection.*

**The Chair:** Sorry, we couldn't hear that answer.

**Mr Glenn Cooper:** The average assessment rate in 1992 was \$2.95. In 1993 we expect it was about \$2.96.

**Mrs Witmer:** And where do you anticipate that to go by the end of the year 2000?

**Mr Glenn Cooper:** There is no forecast of the assessment rate to the year 2000 at this time. The board of directors sets the assessment rate on an annual basis. If we were trying to achieve full funding by the year 2014, the assessment rate would have to be about \$3.40 today. The earlier projection you talked about, \$31 billion in the year 2014, had a flat assessment rate, no



increase in the assessment rate. It also had an increase in the injury frequency rate. That's how you get up to that type of number, and it means moving the clock back to having a \$1-billion-a-year annual increase in the unfunded liability. That is not our forecast; that was just a scenario that was asked for.

**Mr Di Santo:** If I may add, I have to clarify that every year we arrive at the new rates not independently but in consultation with the employers, and we have full consultation. In fact, we already have the preliminary discussion paper out for 1994 and we will meet with the external consultation group, with each group of employers, and we will arrive at a certain rate after having had the benefit of the input of the employers. We don't do that in isolation based on our projections of the unfunded liability or what we think, in abstract, the needs of the board will be.

**Mrs Witmer:** Mr Di Santo, do you anticipate the employer contribution increasing in 1994?

**Mr Di Santo:** Well, if the inflation is the same and the circumstances are the same, we don't anticipate a large increase unless the board of directors collectively, consensually, determines that we have to do something else with the unfunded liability. But under the circumstances, I don't see how we can dramatically increase rates, because the economy is still sluggish and we have the same problems we had at the beginning of the year. I don't see the circumstances changing and therefore—

**Mrs Witmer:** So you're saying that the rate will probably be the same.

**Mr Di Santo:** I cannot say that because, as I premised, we arrive at rates after consultation with all the groups. We have to talk with the employers before we come to some conclusions. But the premise is, given that we have the same circumstances, that there'll be no major change.

**Mrs Witmer:** No major change? So I'm led to understand there probably will be a minor change. I have to tell you, I don't know how you can anticipate even a minor change. If you take a look at the other 10 provinces and the territories, we are already assessed much higher. It is already diminishing our ability to compete: There are individuals who do not select Ontario because of the rate of assessment they're going to have to pay as far as the WCB costs are concerned.

We talk about the unfunded liability. I get all these excuses and people telling me there's really not a problem, "We've got it under control," and yet I hear you say that the rates might increase. You don't realize that if the rates increase, we're going to have less investment in this province. People don't have to come to Ontario. This is one more barrier, along with employment equity, along with pay equity, along with workplace health and safety. All the regulation is killing this province.

**Mr Di Santo:** I want to correct the record. I never said there will be an increase. I never said that and I want to clarify that. I said that since the circumstances are the same and the economy is performing more or less the same way, we don't think there will be major changes. In fact, as I said before, we have out a preliminary 1994 discussion paper. If you wish, we can give you the discussion paper. In the discussion paper we are forecasting that in 1994 the target rate will be lower than in 1993. But I don't want to tell you that the rates will be lower, because the next thing that will be said is, "The chairman said that in 1994 the rates will be lower."

I don't know at this point what the rates will be, because we have to discuss with the employers and we have to take into consideration a very large number of factors. As Mr Cooper said, the three major sectors that are contributing to our fund account for 75% of our finances. If there is a slippage in one of those funds, we require more funds to pay for all our obligations, so somehow we have to take those funds from the system, from the economy. At this point in time I cannot tell you what rates will be, but I'm not telling you that there will be an increase because I don't know.

**Mr Rosario Marchese (Fort York):** I'm going to change the subject a bit, because I have an interest in raising some other questions. I will get back at some other point to the whole issue of the new rate group classification scheme and employers who are covered or not covered, because I have something else I want to speak about right now.

I would like to ask Mr Di Santo or Mr King, whoever wishes, to briefly give us a sense of what kinds of changes we've had from 1978 to the present in terms of Workers' Compensation Board strategies, policy changes, organizational changes. I would like a cursory explanation of that. I could read it myself from the standing committee on resources development, but I prefer for the record to have one of you talk about that.

**Mr King:** This is again a very large and complex question, but I will try to simplify it down to its lowest common denominator.

1100

The workers' compensation system, as envisaged by Chief Justice Meredith in the early 1900s, was to compensate workers who were injured arising out of and in the course of their employment.

As we entered into the latter half of the 20th century, what we began to notice in the workplace was a beginning of a subtle shift in the type of injuries that were occurring. Prior to the 1970s, machines were falling on workers, if I can use that metaphor, and the average workers' compensation claim involved a traumatic injury, a sudden occurrence at a point in time. We, as administrators of compensation systems, can do a very good job in adjudicating a case like that. We can do it



very quickly and skilled rehabilitation professionals can do a pretty good prediction of what to do to help rehabilitate an injured worker who has lost an arm because of a work injury.

What we began seeing with the shift in work and the workplace changes that occurred was away from machines falling on workers and workers filing claims for injury or disablement arising out of the employment. For us laypeople, what that means is that someone who works for eight hours a day at a keyboard was suddenly discovering that their wrists and their elbows were becoming very painful. It was leading to new disabilities and new impairments that we call repetitive strain traumas.

**Mr Marchese:** Mr King, I want to focus it a little more. I understand what you're getting at, and it's a particular problem that adjudicators face in terms of changing workplace accidents and how to deal with them. I specifically wanted you to touch on since 1978. In 1978 an actuarial report was prepared by Wyatt Co and in the 1980s Professor Weiler did some informal reports, and based on that we had Bill 101 in 1984 and Bill 162 in 1989. A number of reports done since 1978 have caused major structural changes at the WCB in terms of how we adjudicate, and what all that has caused in terms of problems for adjudicators and everybody else connected in the system. I wanted you to touch on that because my next question will follow up on that.

**Mr King:** I was always taught, although not having been present, that the follow-up question in question period was the more important one than the initial question. Professor Weiler began writing about reshaping the workers' compensation system in the early 1980s.

As a point of interest, Professor Weiler came out and visited some of the other provinces in Canada to find out what they were doing, and believe it or not, some of the other provinces in Canada actually were quite a bit ahead of Ontario when it came to reforming their workers' compensation system.

Basically, Professor Weiler and the reshaping of compensation had three or four major impacts. The first one was to put more stress on occupational disease. Occupational disease in Ontario had been limited, for the most part, to the schedules to the law, to the regulations under the act that listed which diseases should be covered. Regulations are always behind reality. Anyone who has followed the asbestos exposure problem will know that this year we have finally got regulatory change in the area of asbestos when everyone knew at least 20 years ago, and I believe those who are good historians would argue that we have known for hundreds if not thousands of years. The first thing Professor Weiler did was focus more attention on occupational disease.

The second thing he did was to externalize the appeal process to the Workers' Compensation Appeals Tribunal, establishing this independent body which challenged the Workers' Compensation Board, challenged it to its very roots, to begin to adjudicate and to explain itself in a more legalistic way and to develop policies so that there could be a coherent and equal treatment of claims across the entire province.

A third area that was brought in in the 1980s was the present model of corporate governance. We moved from the previous board model, which was more a corporate board that had a chair and those who supported the overall thrust of the government in the area of worker's compensation, to a corporate governance model which included half employer and half worker members of the board of directors who set up a bipartite board, which meant that many things that had been debated on a consensual basis were now debated on an adversarial or a bipartite basis.

But the biggest change effected came under Bill 162. I don't think anyone yet understands the magnitude of the consequences of Bill 162, even though it was probably the most rigorous debate in the history of workers' compensation in the world. I mean that those of us outside of Ontario were fully aware of the nature of the drama that was unfolding in Ontario. To put it into its most simple form, Bill 162 said that the old method of using a meat chart to rate someone's disability is a bygone-era methodology; that to equate an injured worker's loss to a loss of a part of their body, to that famous or infamous meat chart, is no good in the days of modern rehabilitation, in the days of modern electronic communication.

You will find, for instance, many people who have what would have been considered very severely disabling conditions present in the workplace and contributing fully. The old meat chart would have said, "Give up on someone who is in a wheelchair; they are 100% disabled." Bill 162 said: "We do not give up on those who are disabled; they can be active members of our workforce. We will pay for the disability or the impairment. We will pay for the fact that someone has been left in a wheelchair through a non-economic loss award. We will then measure the effect of the injury on the worker's earnings and that becomes the future economic loss award."

Ontario gave up a system which paid a pension for the lifetime of a worker related to that meat chart but didn't necessarily pay for their wage loss, for a system of dual awards. That old system said to the concert pianist who lost a finger, "You get 1%," because that's what the meat chart said, but the concert pianist who loses one finger has lost their occupation.

On the other hand, the old meat chart said to the manual labourer—is there a more correct term than "manual labourer"?—to the physical labourer who lost



a hand, "You get your 20% or 25% pension and you can't work any more."

I think intuitively people would agree that the wage-loss model is a fairer way, but all of the fine-tuning may not have been done to Bill 162, because we have yet outstanding debates like deeming and other issues.

**Mr Marchese:** Mr King, I know there is so much to be said on all the specifics. The point I wanted to get to was that in this document, the Report of the Standing Committee on Resources Development, it says, "The key changes to workers' compensation wrought by Bill 101 lay not in the benefits but in the administrative restructuring." Then it says, "Bill 162 represents the most profound change to the Ontario's workers' compensation system."

I want to lead to my point, because part of what happens out of all that is that the stakeholders' perceptions of the WCB service levels need to be understood. "Witnesses who appeared before the committee agreed overwhelmingly on the single cause of service delivery problems at the WCB:" that it is or was "widespread change in too short a time frame.

"Perception of the Problem: Continuous Change...There was widespread consensus that too much change can be destabilizing.

"Committee members heard that the WCB has experienced massive policy change beginning with the passage of Bill 101 in 1984" and continues with Bill 162 into the 1990s.

"The committee members were told that all these changes combined with the total revamping of the WCB's internal systems have caused considerable upheaval," and on page 13 it says:

"Over the past few years, the WCB has experienced a metamorphosis. Practically every aspect of the organization and its services have been affected by legislative amendments and internal transformations of the board's structure, organization, staffing and service delivery models. As a direct result of the magnitude, speed, lack of research and coordination of these changes, the Workers' Compensation Board is now unable to provide the level of service to the injured workers and employers of Ontario that it is legislated to provide."

1110

I continue to worry, Mr King, based on what I read and what we heard, that as we talk about changes, as we talk about what more needs to be done, we will make it more difficult to deliver the service we want. My worry, therefore, leads to the next question, the question Ms Witmer raised the other day to Mr Di Santo, who's not here right now: Would you favour having a royal commission? I didn't quite understand what the parameters were of that royal commission, but when I look at all the changes from 1978 to 1993 and when I hear

someone proposing yet another royal commission, I wonder on what basis. What issues do we want to cover? Haven't we covered one hell of a lot of ground that we should begin to implement effectively to ensure that the service workers need is effective? Do you have an opinion on that?

**Mr King:** I always have an opinion on everything, unfortunately at times.

I arrived in Ontario in April 1991. We had passed out some information yesterday on telephone service. I think what happened is that in the fall of 1990 and into the spring of 1991, the metaphorical wheels fell off workers' compensation. A combination of factors all came together, which you have referred to in summary, but think for a minute.

The Workers' Compensation Board moved from a paper office where paper files were moved by human beings to a totally paperless environment, where you suddenly had a thousand paperless imaging screens in front of workers, workers who weren't given any training on that technology. The technology was subject to breakdown because it was so new. The delay factors and response time were monumental. I gave you some figures of the improvement between 1992 and 1993. If I went back to 1990 when it was introduced, you would've been horrified by the availability factors.

In addition to that paperless office, the entire board was reorganized; you suddenly found regional decentralized offices. For instance, the Windsor office was established in the 1990-91 time frame and very few people from head office or our regional offices were prepared to move to Windsor—I can't for the life of me figure why—so you suddenly had to have a bunch of new hired people in Windsor come together and try to run a compensation system. That caused incredible chaos.

We had the introduction of the computerized benefits payments system that had that incredible error rate I referred to yesterday or the day before, which led to a lot of phone calls from people who weren't getting the proper amounts of money. The telephone system broke down to the point where the Workers' Compensation Board of Ontario wasn't answering the phone one out of four times when someone called. It was a very chaotic situation.

A new bill had been passed, the most complex compensation act in the world, called Bill 162. Literally every week a new policy was being produced by the policy implementation branch. There was an incredible influx of new managers to try to manage the new system, the new environment in Ontario.

In effect, the Ontario compensation system moved from what management theory calls an entrepreneurial model, where a sort of small business environment can handle all the questions, to one of a decentralized model



requiring policies and procedures, because you suddenly had to manage in the modern world. I don't think anyone would deny that the metaphorical wheels fell off. It's too strong to say the Ontario board was near a nervous breakdown when Mr Di Santo and I arrived in the spring of 1991, but the organization was on edge at that point in time. Everyone would admit it was on the very edge of the brink.

We made a point of saying that there will be no massive influx of new policy. It had been mentioned in earlier questions that people didn't want new policies. I can tell you that we do a quarterly report for our board of directors on new policies at the compensation board and it's less than half a page per quarter of new policies that you have been seeing. Every new policy has an impact analysis which says: "How much is this going to cost the system? What is this going to do to the administration of compensation?"

**Mr Marchese:** Mr King, I need to interrupt you. You're saying all the things I want to hear—

**Mr King:** Maybe not.

**Mr Marchese:** You did. It's quite a good answer and I know more can be said. I just want to say in this forum, in relation to the question I posed, that I see the Workers' Compensation Board under continual metamorphosis. I've seen that from 1978 to 1993. My view of that, therefore, is that the system needs to stabilize and do the work it needs to do, and I personally do not support a royal commission.

I leave time for my colleague.

**Ms Sharon Murdock (Sudbury):** In relation to Mrs Witmer's comments earlier, I want to point out the increasing rates to the employers and how workers' compensation would have evolved had everything stayed in place. If you look at pre-1984 estimates, they were obviously underestimated, because they were 45% too low, as you stated. If they had continued to follow the 1984 debt strategy, God knows what the rate would be. In fact, it was our debt strategy, or your debt strategy, however you want to look at that; it's actually reducing.

The question I have is on classification of companies in terms of their rate assessment. In particular, coming down here on Monday, CBC Radio had a news item on Inco—it's not called International Nickel any more—and the Steelworkers, Local 6500, which were joining together and making a joint presentation to the board in relation to the fact that despite their health and safety programs, which have reduced accidents significantly, and despite their modified work program, which they have really improved immensely and which is used as an example throughout Ontario and Canada, their premiums are still \$30 million approximately per year. The Steelworkers are joining with the company to ask why, and I would like you to answer that for me.

**The Chair:** In half a minute.

**Mr Di Santo:** Half a minute? This requires quite a lengthy answer, but I'd just like to say that in the case of the mining industry, it is true that they are paying more. For instance, in the case of Inco, I don't have the figures right in my mind but last year I think they paid \$21 million; in 1993, they are paying \$29 million. But that is not because of the increase in rates. In fact, as we explained yesterday, with the new reclassification, we went to 219 rate groups, and with the new reclassification in the mining industry the average rate has been declining as opposed to increasing.

There are other factors that intervene. One of the factors is that every year—that's in Bill 162, so it's a legislation obligation that we have—the ceiling grows and will grow up to 175% of the average industrial index. For miners and for workers in high-paid industries, the ceiling goes up every year. What is it today?

1120

**Mr Glenn Cooper:** It's about \$51,000.

**Mr Di Santo:** In 1993, the ceiling is \$51,000, unless there was—

**Mr Glen Cooper:** It didn't go up much in 1993; in 1992, it went up a lot.

**Ms Murdock:** Mr Di Santo, maybe when we get the next round, you can just finish off.

**Mr Di Santo:** Yes, because it's a very complex issue.

**The Chair:** Thank you, Ms Murdock. I appreciate that, in fairness, and we certainly can return to that subject. Mr Cleary.

**Mr John C. Cleary (Cornwall):** I have a couple of questions for Mr Di Santo. I know of a case where a worker was injured on the job in 1965, and as a result received benefits under workers' compensation. After about eight or nine months of receiving benefits, it was determined that he was fit to return to perform light duties. However, because the former employer did not have any light duties, he ended up returning to the previous job. Unfortunately, he was not able to perform his duties and was terminated.

Left without employment because of the injury that occurred the previous December, he requested that his workers' compensation benefit be restored. Specifically, over the last 25 or so years, he's made numerous and frustrating requests to secure disability benefits under workers' compensation, but to no avail. The constituent says it is outstanding, that the Workers' Compensation Board did not recognize his 1965 injury, particularly as his medical prognosis now has changed from L1 to L3 to L5, which the doctor says would seem to indicate a degenerative injury.

At this point, he is waiting to appeal to the highest Workers' Compensation Appeals Tribunal. The problem, however, is the difficulty in securing representation. No



one except the workers' advisory board is interested in taking on the case. However, should he accept the workers' advisory representation, he will have to wait up to two years before his appeal can be heard, but should he proceed without the workers' advisory board representation, then his appeal could be heard within two months.

The obvious catch is that the workers' advisory board staff, Ministry of Labour staff and even the Workers' Compensation Board staff all admit that without representation the constituent does not have much of a chance of winning the case. This situation indicates an inordinate waiting period of bureaucracy.

I ask the chairman of the compensation board what the normal period is to receive a workers' compensation appeal and what advice he has for this individual who has been waiting for many years.

**Mr Di Santo:** Mr Cleary, I understand the case of your constituent. I don't know if we can discuss it here because it's a personal case and it would not be fair to him and to the other members of the committee to discuss it. But in general terms, I'd like to say that I don't think you're blaming anyone here, but it's unfortunately one of those situations where without representation he may risk losing his case, and to get representation is very difficult for objective circumstances. Personally, I encourage having representation because I think every worker has a right to be properly represented so he can get justice.

We are reviewing the Workers' Compensation Board here as an institution, and I want to point out that this is exactly the problem that exists with our system. Until Bill 162, passed in 1988, there was no right to re-employment at all in the legislation, so your constituent who got hurt in 1965 obviously did not have that right. In Ontario, we have 170,000 people in that condition who were injured before 1990 and are receiving a pension of some kind. The unemployment rate among those workers is probably the highest in Ontario, 40%.

There is a real issue of poverty. There are thousands of injured workers who because of the legislation at that time, because of the impossibility of being re-employed, slipped slowly into a condition of poverty. That's why this is one of the issues I feel very strongly about, and I think something has to be done for those workers, because there is no remedy in legislation now.

In the future, we have to avoid those cases happening. We may find a representative for your constituent, but we don't solve the problem. The problem is that until we find a solution, until we link the Workers' Compensation Board to the broader society and give workers who get injured on the job or people with disabilities who cannot compete with the other people on the open market some assurance that they have some right to employment, those cases will keep repeating and repeating.

In your particular case, if you give us his name, we'll try to deal with it. I don't know what other help I can give you here at this hearing.

**Mr Cleary:** Mr Di Santo, maybe you could answer my question. Is the two years a normal time to have to wait?

**Mr Di Santo:** The office of the worker adviser is not an office of the Workers' Compensation Board, so it would be unfair for me to make any inference on the way it operates. I don't know how long the waiting time is. I know that in some offices, they have a long waiting list; in some offices, they have a shorter waiting list. That's a totally independent operation. You're a member of the agencies committee. It's a schedule 1 agency. There's no relationship at all with the board.

**Mr Cleary:** So what is your advice for him, to wait the two years if that's the case?

**Mr Di Santo:** Is the hearing before the tribunal or before the board?

**Mr Cleary:** He says he'd have to wait up to two years before his appeal could be heard, to go to the workers' advisory board to represent him. He'd have to wait up to two years.

**Mr Di Santo:** I understand. We cannot intervene with the office of the worker adviser because it's an independent body. If he wants an appeal at an earlier date, we can give him an appeal within the board, but we cannot tell the worker adviser to represent him because it's an independent agency.

**Mr Cleary:** I have another one here for you, another incident: A constituent contacted the Workers' Compensation Board in October; that's 11 months ago. In May of this year, seven months later, he had not heard anything from the Workers' Compensation Board. He contacted our office to find out what was going on, and in May of this year, my staff was informed by the Workers' Compensation Board Ottawa office that this constituent's case was being handled by the complex case unit in Toronto.

On May 31, 1993, after having traced his case status with the complex case unit, we were advised that he should not have applied in Ontario as he had previously been employed in the province of Quebec. Essentially, this constituent waited seven months anticipating that he would be receiving benefits any day.

1130

Amazingly enough, however, the Workers' Compensation Board let seven months elapse without contacting this individual, who was furious, and he tells me it now tells him where he should rightfully apply—seven months without receiving income, only to have a door slammed in his face. I was wondering if the chairman could explain how this could have happened and what he is doing to ensure that this situation does not happen again?



**Mr Di Santo:** I don't know the particulars of the case and I'm unable to tell you why it happened, obviously, but if it was with the complex case unit, it means it was not an ordinary accident. I deduct that from what you're saying. If you give us the case I can respond to you in any way you want, but I can give you assurance that we will inquire and will let you know. You have to give us his name or his claim number and we'll look into it.

**Mr Cleary:** I can guarantee you that you'll have both cases.

**Mr Di Santo:** Okay, thank you.

**Mr Mahoney:** Just to follow along this line, I do want to ask some questions about the unfunded liability, but I had distributed yesterday a letter from Frank Miclash, the MPP for Kenora, with copies of letters from Dr Eisener of the Dingwall Medical Group in Dryden, Ontario. Everyone, I think, was given a copy by the clerk; she did distribute them. Maybe this should go to Mr King, because you talk about the improvement in the service level for responding to phone calls and letters.

The letter from Frank Miclash is dated September 13, so it's hot off the press. It encloses copies, you will note, of the doctor's letters going back to October 7, 1991, a follow-up on May 7, 1992, and again on April 26, 1993, followed then by a letter to Mr Miclash on September 7, 1993. This is right during the period when you and the current chairman arrived on the scene in Ontario.

You've told us about the implementation of improvements to responding to letters. How could it be that a doctor's letter—and in my experience with workers' comp, for a doctor to take this kind of initiative, to actually write letters rather than leaving it to the patient to write the letters, I find unusual. Perhaps that happens more in the north than it does in my riding, I don't know; generally the patients-clients are left to their own devices or abilities to communicate with the WCB. But here we have a doctor saying he's had a C-spine injury as far back as 1983, saying it has deteriorated to the point that he needs clear assistance, and he can't even get a letter back acknowledging the fact that he wrote three letters, Mr King. It seems to fly in the face of your statements that you've got this communication aspect of workers' compensation up and running.

**Mr King:** There is simply no reasonable excuse for not responding in a timely way to three letters. There is simply no reasonable excuse to not responding to the first letter that was received in this particular case. If we did not have the claim number, no one should be allowed to use the excuse, "You sent the wrong claim number in." We should be writing back and saying: "We don't seem to be able to identify this individual. Would you please help us." I will make no excuses whatsoever for what was clearly and obviously an

unacceptable communication and an unacceptable service delivery on this particular case.

**Mr Mahoney:** Thank you for that. I appreciate your candour and I assume that Mr Beauregard or Mr Eisener, the doctor, will get some quick communication.

**Mr King:** You have my personal assurance.

**Mr Mahoney:** Thanks very much. Did you have a supplementary? Go ahead.

**Mr Bradley:** I'll wait until you conclude your—

**Mr Mahoney:** Well, that might be a while. Are you on this issue of communication?

**Mr Bradley:** No, so you go ahead. I have another problem.

**Mr Mahoney:** All right. I want to go back to the Premier's council. Mr Di Santo, you talked about the Premier's council with some optimism, that it was in some way going to—well, you seemed to think it was a good thing and that it was advising the Premier.

**Mr Bradley:** Is Buzz still on that or not?

**Mr Mahoney:** Is it not a good thing, the Premier's council?

**Mr Di Santo:** I didn't say anything.

**Mr Mahoney:** I guess I was just reading between the lines. Do you think the Premier's council is a good thing, Mr Di Santo?

**Mr Di Santo:** Is that a question?

**Mr Mahoney:** It sounded like one to me.

**Mr Di Santo:** As I said before, the workplace is changing dramatically; there is restructuring in our economy. I've been convinced and I am convinced that it is very important that the workplace partners take charge of the workplace. For that reason, I think that every forum where they can get together and discuss the problems is an opportunity.

**Mr Mahoney:** You can understand my concern. I'm a little bit surprised that you're not expressing some concern. This council was set up with some, I think, laudatory goals for it to take a lead role in looking at reform of the workers' compensation system. The fact that it was set up in an uneven playing field with six labour representatives and five business representatives may be of some concern to some and, as I think Mrs Witmer pointed out, there is no one representing the small business community.

You didn't set this up, and I appreciate that, but you have to live with the fact that if this is a group that has been directed by the Premier to take a lead role in investigating possible reform of workers' compensation, I would think it's going to be living with you for some time to take a lead role in investigating what reforms might be recommended.

Initially, it was not a level playing field. I understand, if the media reports are correct, that Mr Hargrove and



Mr Ryan have resigned, so now we've tilted the playing field in the other direction, where we've got five management representatives, with once again no one representing small business. The strange thing about that to the members of the government is that there are obvious people who could represent small business, Judith Andrew, for example, or many others, and give a good amount of input into this very important issue.

I would contend that while it's a major concern to Digital Equipment and to Noranda and Canada Trust and General Motors and Stelco, they have the capabilities and the wherewithal to deal with your bureaucracy somewhat better than a small employer with 30, 40 or 50 employees just trying to survive the recession.

Let me tell you, my information is that the Premier, in his first meeting with representatives of the Premier's Labour-Management Advisory Committee, expressed concerns about two areas: the size of the unfunded liability and some current and outstanding policy issues that he wanted it to specifically look at. But the number one issue he hit on was the size of the unfunded liability.

If that leaked document that Mr Offer was presenting a couple of weeks ago is of any consequence, it's not even on the government's agenda to deal with any reforms that the PLMAC might recommend. The PLMAC appears to be in disarray, with the labour members quitting over disagreements with the Premier and his social contract. Who is really looking, Mr Di Santo, at reform of workers' comp, or are we just blowing smoke here?

**Mr Di Santo:** Mr Mahoney, obviously you understand that you are putting me in a very difficult situation.

**Mr Mahoney:** That's what you get all the big bucks for.

**Mr Di Santo:** You're asking me questions that I cannot answer, basically, because—

**Mr Mahoney:** Give me an opinion.

1140

**Mr Di Santo:** You're talking about Mr Hargrove, who resigned. I read that in the papers. But I didn't appoint Mr Hargrove, I didn't deal with him when he resigned—

**Mr Mahoney:** Mr Di Santo, I don't want you to go off on a tangent. I've clearly said that you did not set up this association. This is my specific question: You and Mr King have indicated, I think it's fair to say, that you support some analysis of reform on the workers' compensation. I'm getting a nod in agreement with that. If the PLMAC is the body that's being directed by the Premier to do it, how in the world can it do it? How can you have any sense of confidence in this group or in this government to look at reform when it's falling apart?

**Mr Di Santo:** I said before that in this area what is important is consensus. I can tell you that the Workers' Compensation Board is giving every possible support to the PLMAC, in terms of research, and we are in a working group where there are many people you mentioned before belonging to small business in those organizations.

What is important here I think is to reach consensus on the strategic issues, and the fact that one member resigned and another member is not there I don't think is important, the numbers. If there were 12 workers and 5 employers or 3 employers, it wouldn't change the equation, because what is necessary is a consensus. If there is not consensus, there is no reform, because the government, any government—your government, their government—cannot impose a change in the fundamental dealings of how the Workers' Compensation Board is placed in society.

Ms Murdock spoke before about the mining industry. They have a very serious problem. They are performing the way we want: They are doing the best rehabilitation, they are doing excellent health and safety programs; in fact, they have declined constantly. They have an interest. The president of Noranda, in the Premier's council, has the same interest as a small businessman, because if we don't have a system that represents the interests of everybody, we cannot reform the system.

**The Chair:** I'm sorry. That's the end of this round.

**Mr Di Santo:** We can go back to that.

**Mr Allan K. McLean (Simcoe East):** I'd like to take the opportunity to ask a few questions. While the majority of the administration costs of the WCB are within the control of the board, there's a growing, powerful amount that is beyond the board's control. I understand you're required to provide funds for the Workers' Compensation Appeals Tribunal, the Workplace Health and Safety Agency, the office of the worker adviser, the office of the employer adviser and the Industrial Disease Standards Panel, and these commitments amount to about 25% of the total administration expense. Do you have a breakdown on how much you give to each one of the different agencies? What would the total be for the 25%?

**Mr Di Santo:** Yes, we do. Around \$100 million, basically.

**Mr McLean:** Around \$100 million?

**Mr Glenn Cooper:** In 1992, it was \$97 million, the largest proportion of which goes to the Workplace Health and Safety Agency, which I believe was approximately \$60 million.

**Mr McLean:** The previous question was with regard to the worker adviser, and you had indicated that you had no control over the worker advisers. There's nobody who would be more acquainted with it than you because I believe you were the one who was initially its chair.



Has there been a problem with that part of the agency, if it takes two years to get something through? Has there been staff layoff? Has there been a problem within that part of it?

**Mr Di Santo:** There are basically two problems. I speak here as a private individual, because I want to premise that it's an independent agency and we have no control. In other words, we are asked to pay the bill and we pay the bill, but we cannot question why the bill is paid and for what.

**Mr McLean:** How much does it cost a year for the worker adviser, and how many offices are there in Ontario?

**Mr Di Santo:** The worker advisor? You're getting me out of balance. I'm told between \$8 million and \$9 million. The problems with the office of the worker adviser reflect what's happening in our economy in general. Their case load has increased, because if you are in northern or eastern Ontario and you have an accident and your income is cut because of the accident and you need to survive, you tend to go back and appeal your case. The number of appeals is increasing, because there is an increasing number of people who are slipping into a situation without income. They think, rightfully, that they can go back and have their rights restored through an appeal, so they have increasing appeals. They have their budget frozen because of the economic circumstances of the province; obviously, because of the social contract, they have the same obligations as any other agency in Ontario. Therefore, the case load is increasing. That's the simple explanation.

**Mr McLean:** Okay, that's fine. I have some other questions.

**Mr Di Santo:** I want to reply, if you're still interested in the legislative obligations of the board, that we transfer \$1.1 million to the Industrial Disease Standards Panel, \$9.2 million to the office of the worker adviser, \$3.5 million to the office of the employer adviser, \$61 million to the Workplace Health and Safety Agency, \$11.3 million to WCAT, \$1.9 million to the mine rescue stations and \$12.1 million for the administration of the Occupational Health and Safety Act. These are the transfers in 1993.

**Mr McLean:** Why are the businesses of Ontario paying this amount of money when it's benefiting everybody in Ontario?

**Mr Di Santo:** That's an excellent question. In fact, you're not the only person who has asked that question. We developed a graph which looks like an octopus and gives you a graphic explanation of how complex this field is. What happened in effect was that initially you had the Workers' Compensation Board and then successive governments tried to address specific aspects of the workers' compensation system. They chose the road

of setting up different agencies or bodies, and of course that has become very complicated. The question is, is this also very effective?

**Mr McLean:** And the answer is?

**Mr Di Santo:** I don't have an answer. I wish I had. But I think this is one of the questions that has to be addressed by the Premier's council, because I think this is an answer neither you, members of the Legislature, nor we, the administration of the board, should give. It's one that the employers who are paying the bill and the workers who are receiving benefits from those organizations should give collectively.

**Mr McLean:** Thank you. I've had enough on that; I'm finished.

I want to go to another area, to have somebody answer a question with regard to the 20 inspectors you have. I have a letter here and I just want to read a couple or three paragraphs with regard to an individual who is very upset because she feels she's paying tax for somebody who's abusing the system. You've already replied to this letter, and I've received it and I appreciate the answer we got, but I just want to indicate to you a couple of paragraphs.

"I'm talking about one person in particular who has been claiming WCB for at least five years. This person has degenerative disc disease and has conned his doctor and the doctors at WCB. This person did not hurt his back at work but went to work and claimed that that is where the injury occurred.

"I have the same back problem as this person, but there is a big difference. My injury was work-related and I have continued working full-time as a nurse since the accident. This person brags about all the tax-free money he receives while he is renovating his house, lifting large, heavy objects," and so on.

1150

How many types of letters do you get like this, and what number of people did you look at within the last year over the same type of concern?

**Mr King:** I had indicated yesterday, during my explanation of the fraud strategy and what we're doing to try to deal with the problem of fraud in Ontario, that we had around 430 cases that were presently active and being investigated in Ontario, but that in addition we had 822 approaches indicating that there may be fraud or may be something requiring further investigation. The latest statistic I had for the whole fraud investigation area would be a total of 1,250 cases to date thus far. Now, that doesn't necessarily represent a year; we've gone out and rather aggressively advertised that we're in a position to start investigating and dealing with fraud, so that may be a bump, that may be an increase because we have gone out and asked people to report anything to us.

**Mr McLean:** It has increased over the last year, I



would presume, has it not? Substantially?

**Mr King:** I believe that every business in Ontario and perhaps in Canada would report that the recession has caused increasing problems with stretches upon their capability to deal with fraud.

**Mr McLean:** I have one that was given to me last Friday, as I travelled a bit in the riding, of an individual who owns a small store. She had an employee who was shovelling snow and all of a sudden hurt their knee. That individual has been on compensation for a year. The lady who owned the store did not get anything from the WCB about the individual receiving this injury. All she knows is that this individual is getting workers' compensation, and she claims that there was no injury, that this individual is doing what some others do, and is very concerned about it.

**Mr King:** Again, I can only suggest that people who have concerns about workers or employers or suppliers or our own employees who may be undertaking activities which we should look at more carefully should be in touch with our special investigations branch. Its number would be available through any workers' compensation office, be it regional or area. We will certainly be pleased to look into it. We may not be allowed to report back because of freedom of information and the right of individuals to privacy.

I also wanted to take a brief moment to point out the delicate balance we have to try to maintain. Many of the members of this committee have pointed out the severe or serious service delivery problems of us not responding to pay the claim quickly enough or us not responding sympathetically to an injured worker who has approached the board for benefits. That's a very serious matter and I don't underplay that in any way, but we often know significantly more because of the reports on our files than the constituency assistant or the MPP knows from the one-sided approach they receive.

So I just urge some caution, that things may not always be as simple as they seem when the individual approaches you and says, "This person is shovelling snow and they didn't hurt themselves." I don't know; there may be a perfectly legitimate claim and perfectly legitimate benefits being payable. I ask you to keep an open mind on that, just as I ask you to keep an open mind when someone comes in saying, "The board is bad because they didn't pay my claim." There may be very legitimate reasons involving law and involving fact.

**Mr McLean:** I would be safe in advising those people to write to the board with their complaint of any individual who would do that?

**Mr King:** That's correct.

**Mr McLean:** Would it be appropriate if they didn't sign their name? Or would they have to sign?

**Mrs Karen Haslam (Perth):** Do you look at things that are unsigned?

**Mr McLean:** Well, I'm asking them a question, whether they would accept a letter—

**Mr King:** The issue of anonymous approaches is somewhat different from those that are signed or have a name assigned to them. Only if there is a *prima facie* amount of evidence contained in an anonymous approach that would allow you to legitimately say, "I have to look into this," would an anonymous call lead to an investigation. If someone phoned in anonymously and said, "I know because of the following: They have a secret bank account and they're receiving 50 cheques a day," I believe that even though that's anonymous, I owe some degree of duty to look into that, because there's fact there or there's purported fact that can be looked at quickly. But if someone said, "John Doe is a ripoff," I don't think we legitimately should look at that unless there is sufficient evidence. Anonymous approaches will not be looked at unless there is sufficient evidence that, on a *prima facie* basis, would lead you to conclude that there's fire behind the smoke.

**Mr McLean:** What about Crime Stoppers? Is that ever involved within your jurisdiction? Do you receive calls from them?

**Mr King:** I had indicated yesterday in my explanation of our fraud strategy that we have partnershiped with the various police agencies across Ontario, and they are the ones that support Crime Stoppers. They would come to us if they had evidence leading them to believe there was a fraudulent case against a worker or employer, one of our employees or a supplier.

**Mr McLean:** I have another area of concern. I've gotten letters like this before, but I'd like to read this one—it's only a short one—into the record.

"I wish to register my concerns about the way in which the Workers' Compensation Board is operated.

"I am enclosing copies of two pieces of correspondence, one that relates to the cutting of our rate by about \$4.50 and one that reverses the rate change, retroactive to January 1, 1993, the date of the rate cut.

"My personal objection to the change is that consulting staff at the WCB offices did not know last week that the change was being made. I called in and questioned the rate, and spent at least 10 minutes on the phone while a staff member checked more than one computer program in order to confirm our rate. I then proceeded to make our payment based on the lower rate.

"Yesterday I received the notice of change, dated June 30, 1993.

"The letter indicates that firms may apply for special consideration where rates will change, but again a staff has had to be allocated to deal with calls. More staff will be required to deal with the paperwork, and many small firms are going to have difficulty in coming up with the additional money. There may be layoffs and bankruptcies caused by the financial stress incurred.



"The rate change should be effective July 1," that is, of 1993, "or retroactive payments should be due in several equal payments with no penalty. The WCB already has reports of earnings on file and could easily have the computer do a statement of balance due for every firm at very little cost."

This is an indication of some of the letters that we're receiving from small business. They say:

"In my opinion, it is time the WCB had a complete overhaul. Lines of communication need to be clarified and reorganized. Methods of billing and recording could be streamlined. Above all, the needs of small business need to be seen as having as much importance as the demands of big business.

"I hope others will state their views of the situation. Perhaps a chorus of voices speaking out will have some effect where one will not."

**Mr Di Santo:** Is it a construction company?

**Mr McLean:** No, that is from Valerie Gregg, Bremat Systems Ltd. It's a small company, probably five or six employees, I would anticipate.

**Mr Di Santo:** But in the construction business?

**Mr McLean:** Roofing, I believe.

**Mr Di Santo:** I want to make a premise and Brian will explain to you the technicalities. This is a classic example where a small businessman is faced with a situation which is obviously aggravating for him. Logically, he draws conclusions on the old system.

What happened here was that, as we explained yesterday, we have reorganized all the rate groups. Last year in the budget we decided that in order to allow the employers to go to their rate group without having too much increase or decrease, we would increase a maximum of 3% and decrease a maximum of 3%.

In mid-year, COCA, which is the major construction organization in Ontario, told us that this was not acceptable, that it wanted the employers to be transferred to their proper rate group, and that resulted in that type of situation. But it was not the fault of the administration; it was a decision of the board of directors that was prompted by the employer representatives, because in the construction industry they had come to the conclusion, for reasons I don't know, that this was the best approach.

**Mr King:** As Mr Di Santo has explained, the Workers' Compensation Board did not institute this change at its own initiative. They responded to an approach from the Council of Ontario Construction Associations, which indicated to us that the board-approved rate setting was not suitable. It came forward with a very large argument and lobby that we amend that. That construction lobby was supported by the unions in the construction industry. In fact, it was a joint effort on the part of both the employers and the workers on the Workers' Compensation Board to bring

about the change which led to this constituent's concern. In a technical sense, this was not the initiative of the administration of the WCB but was an initiative of the industry and workers in the construction area, and our board supported them in that.

It may be of some assistance to a constituent who obviously has concerns: Although I believe there has already been a response, if you want to leave the concern or the letter with me, I can certainly see that it's looked at once again.

**Mr McLean:** I believe they have had a response, but would this not be an indication of the importance of having small business represented on that board?

**Mr Di Santo:** It was prompted by the representative of small business, Mr Carmer Sweica, who represents the construction business.

**Mr McLean:** I thought it appropriate that it should be on the record, because there are other individuals who may be in the same situation. They'd be well aware of that.

**The Chair:** Thank you. This meeting is adjourned until 2 o'clock. Thank you for your attendance.

*The committee recessed from 1203 to 1405.*

**The Chair:** We are continuing to review the Workers' Compensation Board. In rotation, our first speakers this afternoon are the government members.

**Ms Murdock:** I want to follow up this morning's session, a continuation of the question I asked. All I know is what was on CBC, so I don't even know whether or not it is part of the classification problem.

**Mr King:** I think I can give you an answer or follow-up from what Mr Di Santo was telling you. The board introduced a new classification plan on January 1, 1993. Last fall, when we discussed the plan with employers, we went out and consulted very heavily about how we move from the old rate system to the new rates. There is a significant move in many cases: Some employers go up and some go down very considerably. The board had recommended that we move towards the new rates in a three-year progression; that is, that we go one third of the way to the new rate up or down, then one third of the way, then one third of the way.

The employers of Ontario came to us unanimously, in a consensus, and said, "Don't do that." The employers of Ontario came to us through their major associations, including the Ontario Mining Association, and said, "Only go up or down 3% towards the new rate." To give you an illustration, if an employer was paying us a 6% rate and its new rate was going to be 9%, our recommendation was that we move one third or \$1. The consensus of employers was, "No, only go up 3%," or 18 cents, I guess it would be.

The particular story you're referring to had to do with a mine which is going to see a much lower rate under the new rate structure, but because of that recommenda-



tion by employers that we only go down 3%, it saw only a very small reduction in its assessment rate in 1993. Depending on what our board of directors decides to do in the 1994 rate, they may either get a big decrease in their assessment rate or, if the employers come to us and tell us unanimously or in consensus, "Don't move very far toward the new rate," they may see only a very small move toward the lower rate.

What we can't see happen is that all of those who get a reduction in their rate under the new plan see themselves get a lower rate and that all those who have to pay more end up being free from paying more. There's got to be a balance here: If we're to give reductions under the new plan, we have to see the increases. We're out consulting right now with the employers on this.

**Ms Murdock:** I know that part of the reporting was that both the Local 6500 and Inco were going to try and arrange a meeting with people at the board. Is that possible?

**Mr King:** There is a meeting scheduled for this Thursday afternoon when the members of this committee, or those who are free, will be touring 2 Bloor East. I have a meeting arranged with the Ontario Mining Association. Presumably, if this employer wishes to come to that meeting, it is free to come. If they wish to bring their bargaining agent, they're free to come. They may be requesting another meeting that I'm not aware of, but I stress that we can't single out one employer and say, "You get the decreased rate and no one else does." We've got to be consistent so that if we go up we go down, and if we go down we go up.

1410

**Ms Murdock:** I'll make this my last question because I know Mr Waters has questions too. In terms of the classification, is the classification rate in any way tied to the health and safety programs? Mr Di Santo has used Inco and Falconbridge as examples of how well that's working, where there are joint health and safety committees and how they've reduced accidents and deaths. When they do that, is that going to be tied in any way to the rate? Is it possible to do that?

**Mr King:** The reduced rate for this particular employer is based upon its cost relative to others in its industry. They have a better cost experience, which arguably is related to their health and safety program and to their modified work program in getting workers back to work. That has certainly been Mr Di Santo's experience, and he's spoken glowingly of their health and safety and their modified work program. It would be our wish to see them receive this more favourable rate in as quick a method as we can find to give them the new rate, but if the employers of Ontario come to us with a consensus which says, "Don't go up or go down rapidly," then I'm not too sure we can single out individuals. We've got to determine what the consensus of employers in Ontario is.

**Ms Murdock:** Just one more on that: I know it is tied, that high-risk industries have a higher premium and so on. Is that going to be maintained in the new classification system?

**Mr King:** The speculative or the futuristic comments I made, that we should be considering a different rate structure, were more to get people to think about some of the problems that are raised by the present rate structure and the pressures of competition on our industries. The board of directors and the administration have implemented the new classification plan that the employers wanted. We're committed to it. We implemented it, even in light of having systems problems; we were able to put in a contingency. There is simply no plan on the part of the board to go away from that plan, which is based upon experience. My remarks earlier were more strategic than they were operational or short-term.

**Mr Daniel Waters (Muskoka-Georgian Bay):** I believe it was during the time we brought you back on one of your many trips to resources development. The hot issue of the day was your new building, and I was as upset as anyone else about the thought of WCB building a new building. I recall meeting you, Mr King, and Mr Di Santo outside the room, and we had a discussion on the new building, at which time I went away quite satisfied, by the way, with WCB's decision. Maybe that would be a good place to start this afternoon: the rationale for the need for this new building.

In my case, I have a father who is in a wheelchair, who is a partial quad. When you started talking about accessibility, in the limited amount of time I'd been in your existing building I recognized the need for some definite changes for people with disabilities, if we were to do it.

The other part I'd like you to touch on, which was mentioned this morning when we talked about the finances of the board, is that I would assume with this new building that after 20 years you would then have some sort of asset which would possibly be used in your financial picture. Could you touch on all of that?

**Mr King:** Firstly, the Workers' Compensation Board is coming out of a long-term lease at its present quarters at 2 Bloor Street East, commonly known, I believe, as the Hudson Bay tower at the corner of Yonge and Bloor. If I walk into the WCB building off of Yonge Street, or try to walk into the WCB building off Yonge Street, I am met with approximately 12 to 16 steps. Therefore, because I have difficulty with steps, I walk around to the Bloor Street side of 2 Bloor and try to get in the building. I look and I find a similar set of steps to go up into the building. To get down into the concourse to get to the building, I'm faced with steps going down. I'm in a wheelchair, so I can't do that. I either face the humiliation of a disabled person having to have someone carry my wheelchair up those steps or down



those steps or I try to find another way to get in the building.

I continue around the building and come to a parkade entrance. I wheel my wheelchair down a parkade entrance, which would be very dangerous, and I find myself in a parking garage. I then make my way to the elevator, to the concourse of the building, and I come to the WCB. I find an escalator. I can't go up an escalator in a wheelchair and I have to look around for an elevator. There is one elevator hidden away around behind to get me up to the main entrance. If I try to come by public transit on the subway, again at the Bloor and Yonge station I find a stairway before I can get up into the concourse, so public transit is not an acceptable method.

For those of us who work at 2 Bloor, a thorough analysis of that building's ability to handle the WCB's needs for efficiency and service to the workers and employers has been done. Firstly, we moved into that building 19 years ago. The air-conditioning system does not support hardware for a data-processing system. We can't have a computer mainframe in there because we can't have the proper environment. We therefore have to be offsite for something like that. During the hot summer days and the cool winter days, other delicate electronic equipment which is vital to us, because we go absolutely blind if we can't use our electronic office, fails on us because of the inadequate ventilation, air-conditioning and heating system.

The floor sizes at 2 Bloor are very small. It has what's called a very small footprint or floor plate. Our business is therefore separated over about 25 floors. Therefore, if you want to come to visit someone in order to coordinate the way you do your work, you may have to move between floors 20 or 30 times a day rather than be able to walk on a level surface in a larger building.

I know there has been some controversy about the elevator system. I invite any of you who are going to tour the building to come to that building at any time between 8 o'clock in the morning and 9:30 in the morning and try to go up, or to come to the building at coffee break time and try to go up or down. I think there is simply no question that the present site is inadequate.

Several years ago the board, as part of its strategic facilities planning, did a detailed study about what would be the best future for the WCB. It first determined that the 2 Bloor site would not be a proper site for the WCB, for some of the reasons I have mentioned. It therefore went out and did extensive surveys of the stakeholders, the clients of the WCB, to determine what they wanted by way of service from us—accessibility, location, public transit versus driving, downtown versus out in the more suburban area—and, based upon that finding, determined that a downtown location would be

preferable for the customers.

It then determined, in terms of its business needs, what would be the best business deal. We have \$6 billion to invest in workers' compensation. One of the things you have to do when you're investing that much money is to distribute that money in as safe a way as possible by diversifying your investment. The board therefore has a large sum of money in the very, very secure bond market, but your rate of return isn't as good on the bond market; therefore, it has another chunk of money, somewhat smaller, in the equity market, where your return is traditionally much higher but your risk is somewhat higher. Finally, the board has significant investment in the real estate market. If you look at the other large funds in Ontario, any board or any large pension group—OMERS, hospitals, teachers—you will find that real estate is one of the main planks of their investment platform.

From an investment point of view, the board determined that it could make a wonderful return for its investment by investing in an office tower in Toronto. The tenant side of the WCB determined that rather than pay rent to a landlord and see that money disappear totally, it would be better to take a long-term lease on a building and allow the investment side of the operation to have an ownership position in that building; in other words, it would pay rent to buy a building.

#### 1420

The board has entered a rather complex agreement to have the investment side invest in an office tower in an ownership position. The investment side will be about three-quarters owner in an office tower after the mortgage is paid. That will be an asset to the board in its investment fund, and it will return a rate of return higher than the average long-term rate of return of bonds and equities.

As a tenant, the board is guaranteed a 20-year rate for rental, without any increases for 20 years. In addition, it has two 10-year holdovers it can take, which means it has 40 years' potential in that building.

The new building will be designed specifically to deal with efficiency and service for our clients. I have described to you earlier that we're an electronic office, a paperless office. Those of who are able to tour on Thursday will tour one of our offices and will see cables coming down out of the ceiling. That's because that office was never built to handle the modern electronic office. If we have to move anybody, we have to have people come in at night and go up through the artificial ceiling to move one computer. We have 1,300 imaging terminals and several thousand computer systems to do our business efficiently. There is movement of those machines, and it's incredibly inefficient and costly to do that.

The new building will be user-friendly for disabled people who visit us. A hundred thousand people visit



the WCB every year: 100,000 people. The majority of those 100,000 people are disabled workers. I've described to you what is a real dilemma for them to come and visit us at 2 Bloor. The new site will have ramps for the disabled. It will have parking spaces specifically set out for the disabled. There will be a special elevator, meaning they don't have to wait and wait in the lobby. In addition, there will be two huge floors set aside for the WCB. That means our business can be spread out horizontally rather than vertically, and the majority of linkages and connections in our business will be done right beside each other rather than up and down.

The present building is leading to an incredible amount of health and safety problems. The lighting is 20 years old. We are an electronic office. The number of claims coming in for people who have serious health problems, from eyestrain, from ergonomically incorrect workstations, is skyrocketing.

The new building will be designed so that the lighting is state-of-the-art from a health point of view for our workforce.

For those who might think this is going to lead to excessive space or luxury for employees, right now we have less than one half of the square footage per worker that the private sector in the insurance industry allows for each worker—less than half the square footage. Any of you who will be able to visit Thursday may criticize us for making workers work in unsafe working conditions where they're literally tripping over each other because of the crowding. We will not be expanding up to the private sector level in terms of space per employee; in fact, we will be having three quarters of the square footage that the private sector has.

In case anyone thinks the executives will be getting a better deal, the executive offices are all going to be smaller and more compact. There will be more meeting rooms for employees to meet, to be trained and to come together to conference cases and to learn how to get our business run better.

This has not been one of the easiest times for the WCB to have gone through, because the board made a very strategic decision in 1990 to go with the new office building as being the best choice for the WCB. What unfortunately happened between decisions being made, contracts being signed and agreements being achieved between developers, land owners and fellow partners in the investment was that the real estate market in Toronto collapsed. Therefore the perception has not been the greatest, from the WCB's point of view.

**The Chair:** You may wish to continue your answer to Mr Waters on the next rotation, because we're out of time on this rotation.

**Mr King:** Thank you, Madam Chairman. May I just

introduce a board member of the Workers' Compensation Board who has come to observe: Steve Mantis from Thunder Bay, or north of Thunder Bay in a town I can't pronounce, is here.

**The Chair:** I too was happy to see Mr Mantis arrive in the room, because I recall Bill 162 and Bill 208, when Mr Mantis represented the injured workers in this province in a very excellent way in a number of deputations back in those years; I can't even remember what year we started on the road show with those bills. I too commend Mr Mantis for his work.

Mr Bradley, we had you down before lunch, if you would like to proceed.

**Mr Bradley:** Are we still dealing with the building?

**The Chair:** You can deal with whatever you want to deal with.

**Mr Bradley:** Okay. I wanted to deal with a couple of problems that have arisen in terms of the service you can provide. One is the issue that is being raised on many occasions now, even by people who in years gone by would have thought it was impossible ever to raise it: That's the issue of workfare, that is, requiring able-bodied individuals who are receiving welfare benefits, social assistance, to work. Even our Premier has made some vague references to this—I would never have expected that, but he has—and others have advocated this over the years.

One of the problems, I would guess, would be the coverage of these individuals. What problems are there in providing coverage for individuals who are employed in this fashion, particularly on a perhaps temporary basis as opposed to a permanent basis, temporary not only in terms of until they get off welfare but in that they might work two days one week and no days the next week?

**Mr King:** The Workers' Compensation Act outlines in both law and in regulation those industries which are covered or protected under the plan, and it does indicate in some cases where there are exclusions. If there were a work program such as you describe—it might be, let's say, a municipality that put together some sort of work program—provided it was under the auspices of an employer who was covered under the act, in other words, who was protected under the terms of the act, there would be protection for those individuals working under workers' compensation.

Sometimes you have to make special arrangements. You may recall some years ago when there were arrangements between unemployment insurance and some industries to work partial weeks and people collected partial UIC. The Workers' Compensation Board had to be flexible in order to establish the ground rules for those who might have been injured so that people didn't end up with a lifetime of low insurance coverage because of a short-term solution.

So those who might work only one or two days a



week may fall into the category of present part-time workers, or, if the arrangement is similar to what I've described about those UIC-employer arrangements, the board may make a special case and indicate that we would cover people to a set amount if they're injured on that type of employment. I could see us being partners in determining the best way to handle those situations.

1430

If, on the other hand, those make-work projects were, let's say, in banking, an industry that isn't covered, there would be no protection under workers' compensation unless there was an application, and the law does allow for people to apply to be covered, and we could then determine whether coverage was available.

**Mr Bradley:** We had a situation arising in Ontario earlier this year with municipalities and agencies, boards and commissions indicating that there would be a major crisis with people—for want of a better word, trainees—who were working for homes for the aged, other municipal services, hospitals and so on, who had to be covered by WCB somehow. Am I correct in assuming that this wasn't really your battle, that it was a battle over who was going to pay the premiums, or were you deeply involved in that?

**Mr King:** We were so deeply involved in it that it's a period in my life that matches the facilities strategy.

What happened was that as industry began entering this recession and began looking for ways to compete in the very, very difficult cost squeeze they faced, one of the areas they looked at was whether or not they had to pay the compensation premium of workers they took in to train. In some cases there is apprentice training, in some cases there is industry training, in some cases there's just the voluntary bringing of people in to train them. To give you an example, to become a fully qualified registered nurse in Ontario, you'd likely have to work on a hospital ward for a period of time under the supervision of both a medical and a nursing supervisor to get hands-on experience in nursing, in addition to your schooling. What we found is that the employers in some instances were indicating that they were not going to be liable for the protection of these people they were bringing in to be trained because they didn't think they could afford to pay for it in the cost squeeze.

It gets complex between schedule 1 and schedule 2 employers, but in health care, for instance, most of them pay the full costs of work injuries. They don't pay us an insurance premium; they self-insure. They announced, some of them: "We won't pay these people. If you make us pay them if they're injured, we won't bring them in to be trained."

As an interim step, the WCB put forward what was called an interim training policy that said: "Let's start with the premise that these people are covered with workers' compensation protection so that if they're injured, they're protected, number one, and two, they

won't be able to sue someone for negligence. Now that the interim policy is in place, let's argue about how it gets paid for." If you followed the story, you will know that the government ultimately indicated its willingness to pay the costs of the training participants, and that became the ultimate solution.

The problem you first posed, which is work creation measures, may be covered under the training situation. It may be covered in another way, depending on the individual circumstances.

**Mr Bradley:** I have a brief question about local community legal assistance clinics. They have in many municipalities provided the service of representing employees rather than employers, employees who are unable to get a worker adviser or who feel they would have a difficult time themselves in dealing with the board, so they have gone to those offices. Now that the provincial government has cut funding, frozen funding, whatever it has done to the funding of those offices, do you anticipate that's going to increase your workload on your worker adviser? Or how do you see this impacting on your whole operation, the fact that those people sometimes just when you phone say, "We're taking no more cases this month"?

**Mr King:** As Mr Di Santo pointed out earlier, it would not be proper for the Workers' Compensation Board to comment on another independent agency, the office of the worker adviser. I'm aware that there may be some funding problems in the community clinics.

Let me start with the premise that nobody under a workers' compensation system should have to have a representative in order to have his rights protected. Nobody, meaning neither a worker nor an employer, should have to either hire someone or seek the services of an office like the worker adviser. It is our duty as an agency, as the upholders of the Workers' Compensation Act, to insist that every worker's right under that act is fully exercised and fully protected and that every employer's right is fully protected.

That's a premise. Whether that's the case in Ontario right now is probably very arguable. We have a duty, as the administering body, not to make workers prove that they were injured on the job, but if an injured worker comes to us, to go out and find out if they were, if there's a dispute.

I would urge people who are sitting in a queue or waiting in a line for a representative to help them with an appeal, at least at the initial stage, to simply write a letter saying, "I would like to appeal," because our first level of appeal, called "decision review," will do sufficient investigation to determine whether a claim rests or whether the person should get more benefits.

When you step up a step in Ontario you get to the hearing branch, and people often feel it necessary to have a representative at a formal hearing. That's prob-



ably where a representative may be more practical, because often an adversarial system exists, with the employer and the worker having an argument at that level. But I urge everyone at that first level: "Don't line up in a queue waiting for someone to take your case. Try us out and see if we can do the job for you." If we can't, they have two remaining rights of appeal in Ontario, one to our own internal hearings branch and the final one to the Workers' Compensation Appeals Tribunal. So although there may be a problem out there with representatives being available, I urge people not to become totally and absolutely frustrated if they think they've got a valid case. I would urge them actually to phone the workers' compensation office and see if they can't get it straightened around with the supervisor before they even appeal, rather than to wait and become more and more frustrated.

**Mr Bradley:** I will turn it over to Mr Mahoney, who has some questions.

**Mr Mahoney:** I have a number of questions, but I've got to follow up on that offer, which I think is a fair offer. I guess the problem is that we as MPPs deal with people every day at a level of frustration that goes well beyond the initial stage. You say, Mr King, that it's not your—I'm not sure of the word you used—job to ask workers to prove that they're injured, but every day I get people where that kind of thing is being disputed. More importantly, what's being disputed is the level of rehab that they've attained, as to how much modified work they can or cannot do.

Over the lunch period, I talked to a fellow who's been literally forced back to work half-days and is in terrible pain. His doctor agrees that he shouldn't be working, but he has no choice: He's going to lose his home if he doesn't go back. It's the system that's saying to him that he has to go back to some form of modified work, which is still causing him terrible pain.

While that may be your goal and your wish and, trying to be fair, may even be true in many cases, there are so many cases where it's simply not true, and those are the ones we get hit with. How do we sit here and accept with any credibility the statement that the workers' compensation system is not pushing people to a level of proof that is beyond their ability to prove?

I use the example of the university boy who fell off the back of a truck and wound up being left with the onus of proof on him. Common sense would tell you that an injury of that severity would not heal in one week, yet that's exactly what he received, one week's compensation from the board, and lost over \$1,200 in summer earnings. There are all kinds of cases.

I've never met you. I've listened to you and Mr Di Santo for the first time this week. I don't doubt your sincerity, but I don't know if you've got your finger on the pulse of what's really happening in worker compensation issues at the street level. Maybe you should spend

some time in my office or some MPPs' offices answering those telephone calls on workers' compensation issues and see what's really going on.

**Mr King:** I hope I've been candid and open at this three-day hearing thus far in admitting that the Workers' Compensation Board has not solved the problems. In fact, I've openly admitted to serious mistakes and serious service delivery problems. I am talking about a compensation system which should exist in Ontario and which we're trying to move towards, a system that says you don't have to hire someone in order to have your rights protected, that that is our job as the administrators of this system.

1440

I'm loath to get into a discussion about constituency offices, because I think first and foremost that MPPs are advocates for those who are their constituents and who come to see them with problems. Litigative law, like workers' compensation, where there is debate and dispute on fact, where there are significant wins or gains and losses to be made depending on which way the board rules, can lead to simplistic decisions being made when you only hear one side of the equation. Those of us in administrative law try as hard as we can to evenly adjudicate these cases. We don't make the right calls every time, but when you look at a case, you often find two sides to the case.

**Mr Mahoney:** I accept that. I would also accept the fact that while Mr Cleary and myself and perhaps some others have given you individual cases just as examples, just as Mr Di Santo did in his story of John in his opening remarks, it's very difficult in this setting for us to deal with individual specifics.

I accept the fact that you said, in essence, it would be a perfect world if a workers' compensation system did not put the onus of proof for injury or level of rehab on the client, but the reality is that the Workers' Compensation Board, in a generic sense, in the province of Ontario very, very much puts the onus of proof on those individuals. In many cases we see, it involves tremendous hardship to those people in the interim.

They might even win an award somewhere down the road, but we heard of one fellow who had to suffer through seven months of inactivity on the part of the board. I don't know about you, but I couldn't live seven months without some form of income and still hold on to my home and my automobile and other things I need, so I think there are very real problems in that area.

I do appreciate your response and that we have to deal with it individually, but I find a sense of frustration as an MPP in, first of all, listening to the litany of sob stories that come into my office from people who feel they've been done wrong by the Workers' Compensation Board. It gets tedious listening to all of these problems, but that's part of my job. What's even more tedious is a feeling of helplessness I have, that I can't



resolve the problem unless I happen to be fortunate enough to be sitting on a committee and deliver something to someone in a position of authority such as yourself.

But I shouldn't be having to deal with you on a regular basis, nor should my staff. There should be a system of communication, which is, frankly, just not there, Mr King, on an ongoing basis.

**Mr King:** I'll be very brief. I didn't want to say that we're in an ideal world. I was trying to say—

**Mr Mahoney:** If we were.

**Mr King:** —that if anyone was mistaken that they need a representative at that first level and therefore are delaying trying to get their compensation claim straightened around, all I ask is, give it a try before they become very frustrated. If they can't get through, then they may have to go through one of those more formal procedures. That's basically what I was trying to say.

**Mr Mahoney:** On some of the other issues, first of all, I read a response to a question that was sent prior to these hearings to Mr Di Santo, and this is a response to our clerk here. The question was, "Is the agency audited by the Provincial Auditor, ministry auditors, external/internal auditors or others?" and then the answers are provided in writing.

On the question of external auditors, the answer "Yes" has a double asterisk. It goes on to say, "The 1992 annual report of the WCB includes the opinion of the external auditors." Do you have any idea to what extent those auditors actually audited, or did they simply provide one of those generic chartered accountants' statements, that sort of disclaimer that says, "If there's anything wrong here, it's not my fault"?

**Mr King:** I think I would ask to defer to a professional finance person, because Mr Cooper, the chief financial officer, is the main person to deal with the auditors. I think he can give you a professional response to that.

**Mr Glenn Cooper:** We have a professional firm of auditors, chartered accountants, the largest accounting firm in Canada as our external auditors. They work on their assignment under the direction of the Provincial Auditor. In other words, they develop an audit plan and their audit plan is reviewed with the Provincial Auditor. It's also reviewed with the audit committee, which is a subcommittee of the board of directors. That audit plan is also reviewed with management. Management can have some input about the areas where they have concerns.

I believe they spent in 1992 well over 2,000 hours in the board doing audits. Because they were a new auditor this year, they spent additional time getting to know the business. It is a full-fledged audit. The working papers they produce are reviewed in detail by the Provincial Auditor's staff. The report comes back to the audit

committee. The Provincial Auditor is present when the report is given to the audit committee of the board of directors, and the opinion, as you see, was an unqualified opinion in our 1992 annual report.

**Mr McLean:** I'd like to follow up on some of the questions I had this morning with regard to the individual small store that had the problem with the individual who said they were injured. Is there a charge back to that individual small store owner of some costs related to the compensation that the individual would be receiving?

**Mr King:** The Workers' Compensation Board has what's called an experience rating plan. I can't know without knowing the individual employer whether they're a member of that plan, because not every employer in Ontario is a member, although the board is moving to bring all employers under it.

If that employer is a member of the new experimental experience rating, NEER by acronym, their record of number of claims with the board, that is, the incidence, and the severity or the costs of those claims would be checked against all other employers of that particular category. If their experience was worse, they would owe us a premium or a fine, a surcharge, and if their experience was better than the other employers', we would give them a reward or a merit rebate, so yes, there could be a charge against that employer related to the costs of that claim if they're a member of the plan.

**Mr McLean:** What division of the WCB would deal with those types of instances?

**Mr King:** There are two parts of the WCB that deal with this particular situation. There is an employer incentives branch of the WCB which deals with the experience rating plans and deals with any appeals or concerns that workers and employers might have. The actual adjustment of the books, if you will, if there were any changes, would be in the area of the revenue department. If you have a concern for a company or a constituent, both of these departments are under the vice-president of finance, so all they would have to do would be to contact the vice-president of finance at the Workers' Compensation Board for possible redress.

**Mr McLean:** I want to move on to another area. It's been brought to my attention on several occasions and just this last week, and I told the individual to write me a letter. It had to do with an individual who wanted to start a new business. He anticipated he would be hiring six employees but, as it turned out, the business didn't get off the ground when he really wanted it to and he ended up hiring one employee, but the WCB has continually billed him for payments for six employees. He became very frustrated after about nine months and wanted to know what they're going to do about it. Do you have many cases like that?

**Mr King:** Too many. Probably one is too many, but



I won't try to pretend there is only one. We have, and I will plead guilty to this, expended the majority of our energy since the last standing committee on resources with what I call service delivery for the workers and the benefits side; in other words, the claims of those workers who are filing for benefits.

1450

We have been putting some energies in the area of revenue enhancement—that's the employer side of the equation—but I think I would have to argue that until the hiring of a new executive director, a very experienced gentleman from Alberta, in about January or February of this year, we have not done everything we should have to make sure that employers are properly serviced.

I urge you, if you get cases like this from the employers where we're not providing good service, to be in touch with either myself or the vice-president of finance and administration, because this is not acceptable service. Unless it's brought to our attention, we can't take the corrective action.

We are implementing performance management where people are going to be held accountable for their areas of responsibility and we have to be able to have this feedback from people like yourself.

**Mr McLean:** I'm only giving you a few instances, but I understand it's a major, major problem. My quarry was to find out if you're addressing it and how soon it is going to be addressed without further complications.

I've often wondered why the WCB didn't, when a person needs a physiotherapist, have it done privately. How many people do you have on staff at the WCB who are physiotherapists?

**Mr King:** About four years ago, the board closed down its physiotherapy, literally closed it down, and started up what was called the medical rehabilitation strategy. Right now across Ontario, there are now 104 community-based clinics, private clinics; the private sector has these clinics. They're based upon the sports medicine theory of treatment whereby you don't let the injury tighten up by not moving it, by getting active as quickly as you can. What you see with professional athletes is that very shortly after a sprain or a strain they're back out on the field, and the way they're able to do that is to keep the injured part moving, not to let it tighten up.

Each of these 104 clinics, spread all across Ontario, is a private sector clinic. It provides the basic 90% of the physiotherapy that's delivered, or the treatment at that level that's delivered. There are private physiotherapy clinics that are utilized in Ontario. The board may have a handful of physiotherapists for very specialized cases.

We have an amputee clinic, for instance, and a prosthetics clinic where they build limbs. We have an

orthopaedic shoe area where people who have foot injuries can have special footwear prepared—

**Mr McLean:** Is that in the office on Highway 400?

**Mr King:** That's the Downsview site off the 400, yes, that's correct.

**Mr McLean:** Is that facility used to its max or has it been phased out somewhat?

**Mr King:** The Downsview facility off Highway 400 on Torbarrie Road is the facility that I indicated was virtually shut down about four or five years ago with the decentralization of the treatment of workers. Prior to that time, workers were flown in or bused in from all across Ontario to have treatment at Downsview. Now they can have treatment at Thunder Bay, they can have treatment in Oshawa, they can have treatment in Oakville, they can have treatment in St Catharines—in their local community, with a private clinic, one of these 104 clinics.

The facility at Downsview does have the orthopaedic clinic, it's got the prosthetics shop, it's got a head-injury clinic, which is a very specialized area, it's got the orthopaedic shoe program and a neurology program, but right now it would be about one quarter utilized. The building is up for sale right now, as a matter of fact.

**Mr McLean:** Then the staff and injured workers' travel expense should be down and not up. The indications I have are that it's increased substantially.

**Mr King:** The travel expense may not have gone down, because if someone was being treated centrally at Downsview in Toronto, they may have been paid travel once every week or once every two weeks to come into Downsview. However, if they're being treated in Thunder Bay and they live at Red Lake or whatever town is near Thunder Bay, we may be paying them each day to come in for treatment and then home again at night. It doesn't necessarily follow that because you decentralized your treatment, you're going to cut your travel costs.

**Mr McLean:** The retraining programs I've observed—I have one case right now where the individual has been offered some retraining programs. The individual wanted to be retrained as a veterinarian, which he thinks he has the education for and wants to do, but the retraining would put him into a position which would pay far more than he was getting before; of course he's been denied for that very reason and he is rather upset that he's been denied. Will you not allow them to make any more than they were making in their previous employment?

**Mr King:** I would hope not, but I dread to give blanket assurances in a forum like this because someone will always bring a piece of paper up to prove me a liar. I think the board admits that it needs to do work in the area of vocational rehabilitation. The task force report you referred to, which was a joint report from both

industry and labour, was highly critical of the board's rehabilitation program.

In response to that, we have done many things, the first of which was to hire someone specifically dedicated to vocational rehabilitation, the chief vocational rehabilitation officer. The second item: Odoardo mentioned yesterday that he has appointed a vocational rehabilitation advisory committee which has equal members from industry and labour, who are to tell us, as the chief users of the compensation system, the type of rehab they want us to provide. I think it's going to take us a while longer to give the sort of rehab that Ontario has the right to expect and that we have the duty to provide.

Should we be rehabilitating people? Of course we should. I have a special interest in this from a personal point of view in that I earn a little more money now than I did when I was injured some years ago, and it was through rehabilitation, through a workers' compensation system. I'm a personal fan of that model.

**Mr McLean:** I'd like the record to show: Can you indicate to me the numbers of the board and the makeup of the board?

1500

**Mr King:** At present there are 11 people who are board members. The two Odoardo mentioned yesterday were myself, who is vice-chair, and of course he is the chairman of the board. Titles: Odoardo Di Santo, chair of the Workers' Compensation Board; Brian King, vice-chair.

Representative of employers is the Honourable Robert Stanbury, vice-chair, who is nearly full-time; Carmer Sweica, who is out of the Council of Ontario Construction Associations; Maurice Dutrisac, who is presently senior vice-president of human resources with Southam, previously out of Inglis manufacturing and who is a Canadian Manufacturers' Association representative; and Ms Daphne FitzGerald, who is a vice-president of human resources, although I believe she got a promotion, with Zurich Insurance.

From the workers' side is Dennis Schweitzer, who is with the United Transportation union, and he is full-time or near full-time vice-chair of the board. Joe Duffy is the head of the construction workers' council, representing construction workers. I'm going to be knifed in the back because Steve Mantis, who is a representative of the Ontario Network of Injured Workers—no, he's left, so I won't get knifed in the back—is a board member representative of workers. Homer Seguin is presently, I believe, retired, but a long-time activist in the United Steelworkers in the area of occupational disease and other union matters.

That's four and four from industry and labour, two appointed by the government, as was pointed out yesterday. In a third category is the ex officio member,

the chair of the Workers' Compensation Appeals Tribunal, Ron Ellis.

**Mr McLean:** How much would a full-time vice-chair make?

**Mr King:** I believe their per diem is presently \$400 a day.

**Mr McLean:** But they would be pretty well full-time?

**Mr King:** I believe there is a cap on their billing. In other words, they're not allowed to bill more than \$88,000 a year, which would be 220 days maximum, if my math is right.

**Mr McLean:** What would the salary range of the vice-chair of the board be?

**Mr King:** I get \$120,000.

**Mr Mahoney:** We could get Bradley to retire for that.

**Mr McLean:** There were some modifications done at the present site with regard to some drawings and some art. Is that in the foyer? Where is that, and what was the cost of that?

**Mr King:** I know of no modification other than that I had some art taken down out of my meeting room because I thought it was too much like Number 18 or Number 16 or whatever that expensive drawing was. I don't know where it's hanging now, but I know of no other modifications.

**Mr McLean:** You talked earlier on about the rates and how you're changing them, lowering some and raising some. In three years you hope to have it finalized. Are you looking at a flat rate in three years?

**Mr King:** I had tried to give the committee some strategic thoughts about future potential changes to compensation and I had raised the issue of a flat rate. Let me once again assure this committee that the board of directors has implemented the classification plan that the employers of Ontario recommended we implement. It was implemented fully January 1 of this year. The employers didn't all go to the rates that are called for under the plan because they came back, on a consensus basis, and said that would be too traumatic.

The board is committed to that plan. The board has no plan to move to a flat rate now or in three years. I would hope people could break some of the paradigms that exist and discuss alternatives, but that's my feeling alone.

**Mr McLean:** Thank you. The final question I have is that the Workers' Compensation Appeals Tribunal has been allowing chronic occupational stress since 1987. The WCB administration proposes a policy with regard to WCAT more stringent than that. How many of those appeals of chronic occupational stress do you deal with in a year?

**Mr King:** You're very correct that the Workers'



Compensation Appeals Tribunal does hear cases for chronic stress arising out of the course of employment and has accepted numerous cases of chronic stress, some of them highly publicized.

The Workers' Compensation Board policy is to accept stress cases where there is a traumatic onset. In lay terms that I always like to use, because I'm a layperson, I think all of us would agree that if a law enforcement officer was present when there had been a particularly gruesome discovery, and I won't go into any examples, something can snap, something related directly to the work you do. If you're with a fellow who is gunned down, for instance, or if you were on top of that scaffold that collapsed in St Catharines and you managed to make it on to the safety of the pillar but watched six of your comrades fall to their death and you had a breakdown, I think every one of us would say, "That was caused by work; there is no doubt that was caused by work."

What we at the board don't generally do is accept the day-to-day stressors that all of us face as being work-related or compensable. There have been a handful of cases, and I assure you just a very handful, that have been accepted at the board, but we don't generally accept them.

I don't know the numbers of cases that come through our system each year. If I recall correctly, the estimates of cost if the board were to open up the entire system to chronic stressors was in the \$150- to \$200-million range per year.

Someone has just written me a note indicating there are likely around 500 cases per year brought forward for stress claims, and we would accept those in the category I previously described where there was a culminating incident or a trauma.

**Mr McLean:** How many of those 500 would be approved?

**Mr King:** I would guess that less than 50 even acute stresses would be accepted and less than a handful of chronic stress would be accepted by the board. The WCAT may be up in the score of cases accepted for chronic stress now.

**Mr McLean:** Thank you. Madam Chair, tomorrow afternoon we're dealing with the tour of the board?

**The Chair:** Yes, that's right.

**Mr McLean:** Was there any discussion with regard to touring it in the morning and having some questions in the afternoon after we had a look at it?

**Mr Mahoney:** They need the morning to get the building set up.

**The Chair:** Actually, to answer your question directly, the only discussion was between this afternoon and Thursday afternoon. There wasn't such a wise suggestion as to tour it in the morning and talk about it in the afternoon. I'm sure if the committee wanted to

change it, we could change it.

**Mr McLean:** I'd like to do that, but it's up to the rest of the committee.

**Mr Bradley:** They'd have to work overtime tonight to put all the boxes in the aisles.

**The Chair:** We're finished Mr McLean's time. Would the committee like to consider going in the morning instead of the afternoon?

**Mr Marchese:** If Steve is coming, absolutely.

**Mr Mahoney:** I'm not available tomorrow. You guys have a nice time.

**Mr Marchese:** Jim is coming.

**Mrs Haslam:** I'm concerned about Ms Witmer.

**The Chair:** Ms Witmer won't be here tomorrow—

**Mr Bradley:** She's going to miss the trip.

**The Chair:** Excuse me. Ms Witmer is not able to be here tomorrow at all, Karen, so that's not a problem.

**Mrs Haslam:** That was one of the concerns. My other concern is the time allotment. Some of you have seen the building; I haven't. If anyone has been on a tour with me, you know that I ask a dozen questions, go into a lot of places and spend a lot of time looking at the facilities I am interested in. I'm only asking about time. Is this a time problem?

**The Chair:** Let me answer the question with a little structure. The sitting schedule which you approved at the beginning of the week was to sit from 10 till 12 and 2 to 5. If you wanted to do the tour in the morning, then we could agree to spend three hours in the morning and sit two hours in the afternoon.

**Mrs Haslam:** I've only asked that as a clarification. Would that be okay with everyone?

**Ms Murdock:** Nine to 12 and 1 to 3? I like that.

**Mr King:** We're at work at 6:30 in the morning.

**Mr Mahoney:** Most of us don't get home till then.

**Mrs Haslam:** We're not asking from where.

*Interjections.*

**Mr Waters:** Do whatever you have to, Madam Chair.

**Mr McLean:** I would suggest 9:30 to 12:30.

**Mrs Haslam:** And 1 to 3? I would like clarification on the time, because like everyone else I have functions to attend in the evening at 5 o'clock.

**The Chair:** Okay, 9:30 to 12:30 would be the morning. Then are you talking about an hour for lunch or to get back here, or what would be your wish?

**Ms Murdock:** The board will provide us with sandwiches.

**Mr Mahoney:** Won't you get sandwiches at the board? Watercress sandwiches, those little things?

**Mrs Haslam:** No, they won't.

**Mr Marchese:** With the unfunded liability?

**Mrs Haslam:** Can you afford it?

**The Chair:** Can I afford it?

**Mrs Haslam:** No, Madam Chair, I would never ask what you can and cannot afford, trust me. I am asking for the times. Is it 9:30 to 12:30 and then 1 to 3?

**Mr Mahoney:** If the Chair's buying lunch, I might change my schedule. Are you buying lunch?

**The Chair:** The afternoon has to depend on what you want to do about lunch. Is there a cafeteria we could eat lunch in, Mr King?

**Mr King:** No, but we could arrange, if it wouldn't be looked upon as—

**The Chair:** Payola.

**Mr King:** —an undue influence, to have some sandwiches available at 12 o'clock at the boardroom.

**The Chair:** Actually, Mr King, to make you feel more comfortable about that, having been on this committee for a number of years intermittently, I can remember other government agencies, even the psychiatric hospital in Mr McLean's riding, that served us a very lovely lunch as a committee, and certainly in other parts of this province a government agency has served the committee lunch, so it would not be a precedent to serve an inexpensive repast.

1510

**Mr Waters:** Madam Chair, if I might, could I make a motion that we meet at WCB, 2 Bloor Street, at 9:30 to 12:30 and then resume in the afternoon at 1:30 till the appropriate—

**Mrs Haslam:** Till 3, I thought.

**The Chair:** Are you saying 3 or 3:30?

**Mrs Haslam:** Let's say 3, and then—

**The Chair:** No, we have to agree. I think we should sit from 1:30 to 3:30 and then we're committing to the same amount of time.

**Mr Waters:** That's fine. That's my motion.

**The Chair:** The motion is that we sit from 9:30 to 12:30 at the WCB office and then reconvene here from 1:30 to 3:30 tomorrow. All in favour? Carried.

**Mr King:** Where would you like us to be to receive you? At the reception area at Yonge Street?

**The Chair:** That deals with my next question. What does the committee want to do, just meet there, or would you like to get taxis from here?

**Mrs Haslam:** To 2 Bloor Street? It's two blocks.

**The Chair:** I'm only asking. Ms Murdock?

**Ms Murdock:** Actually, I think we should all just meet there and get there on our own steam. But given what has been said here yesterday and today in terms of the disabled entry etc, I think we should be meeting somewhere outside the building as if we were an injured worker who required accessible entry and that somebody from the board meet us downstairs and bring us in

the way a disabled person would have to go.

**The Chair:** All right, Mr King, where would you suggest the committee meet you at 9:30 tomorrow?

**Mr King:** If you meet us at the Yonge Street entrance, that probably is the easiest to get to. You can take either of the two subway routes to the Yonge and Bloor station and the concourse, where there are signs that show you the way to the WCB. There are receptionists on duty who can show you to the Yonge Street entrance. We can determine at that time how many would be present at lunch and figure out what to get.

**The Chair:** Is everybody here now going to be there in attendance tomorrow?

**Mr Mahoney:** No.

**Mr King:** We can check tomorrow morning.

**Mr Mahoney:** Mr Curling will be there.

**The Chair:** Mr Curling, Mr Bradley and Mr Cleary. Are you coming tomorrow morning?

**Mr Bradley:** Oh, I wouldn't miss this trip for the world. I'll be there, large as life.

**The Chair:** All right. We've agreed on the times. We've also agreed to meet at the Yonge Street entrance. Anyone who is not attending tomorrow, would you indicate for the clerk, please? They're all coming. Everyone who's in the room, with the exception of Mr Mahoney, will be there tomorrow.

**Mr Mahoney:** I'm sure that breaks your heart.

**Mrs Haslam:** Oh, it does.

**Ms Murdock:** I think it's sad that you're not going to be there. You, as a critic, should be.

**The Chair:** We're going to resume our rotation with Ms Carter for the government.

**Ms Jenny Carter (Peterborough):** I want to get back to the building. I'm looking at the Provincial Auditor's report, which says:

"The assessments were highly influenced by the WCB's desire to own its headquarters. For instance, the cost of constructing and financing a new building was not compared to the cost of leasing space."

It seems to me it's common sense that if your rent money is going into something you basically own, you're doing much better than if you're just paying rent, but I wonder if you could go in a little more detail into that situation and the extent to which you're getting your money back, how long it takes to recoup your investment and so on.

**Mr King:** I'm going to ask the chief financial officer of the Workers' Compensation Board to comment on the investment aspect of the Simcoe Place project.

**Mr Glenn Cooper:** Yes, your views are correct. Normally, if you're going to stay in a location for a number or a period of years, you're better to own the



premises as opposed to lease. Generally, in an office tower situation, it's better, once you get beyond 8 to 10 years, to own a facility as opposed to leasing it. The economics work out to your favour.

In our case, we have committed to a 20-year lease of these premises. We were in our former building with a 20-year lease. We think the Workers' Compensation Board will be around for another 20 years at least and that we will need the premises.

I think the report you make mention of was subjective. One may want to keep one's options open, but there is a cost to doing that, and our analysis indicates that the cost of keeping our options open and with more flexibility would cost us more money. In this situation, we've entered into a fixed lease rate for 20 years, and we have the ability to sublease the building; if we wanted to sublease, it would give less space. So we do have a fair amount of flexibility, at the same time minimizing our cost, and we have a very attractive rate of return on our investment.

**Ms Carter:** It was pointed out to us earlier that you do have funds to invest anyway so that you might as well invest in what is going to be your own building.

I think there's some misunderstanding here as to where the money is coming from that is being invested in this building. There seems to be an impression in some quarters that it could put up your assessments to employers. I just wonder if you could explain to everybody where it came from.

**Mr Glenn Cooper:** Where the money is coming from: First of all, we do have \$6 billion, which was earlier described by Mr King as widely diversified into various portfolios including bonds, equities and a small portion in real estate.

1520

Our present plans are to borrow a portion through a mortgage and use part of our own funds for the facility. Originally, in 1990, it was anticipated that all the funds would be borrowed, that we wouldn't use any of our own money. By using borrowed funds rather than our own money, we get an even higher rate of return because you still have your own money invested, what you're originally earning. If you're using somebody else's money to borrow and use that for an investment, you're making money on that; you're enhancing your return.

At the present time, we have made arrangements to borrow a little more than half of the transaction. We wanted to have financing in place before we started construction and that's why we put some financing in place. We will visit the marketplace over the next couple of years as the building is built and determine whether or not we'll borrow more for the facility.

**Ms Carter:** How was the decision arrived at to spend the money in this way?

**Mr Glenn Cooper:** The decision was arrived at basically in 1990-91, before I was at the board, but I understand the decision was arrived at because the return could be enhanced. We saw an excellent return on the facility, better than most real estate investments. The independent consultants we've used on this transaction have both estimated a return of about 13% per annum on the investment, which is considerably higher than what we earn on most of our investments.

**Ms Carter:** So this will have no effect on employer premiums or compensation rates or anything else?

**Mr Glenn Cooper:** The investment and the transaction, if it has any effect at all, is going to enhance returns. This goes the other way: It could reduce rates.

**Ms Carter:** Now, on a slightly different point, I want to read you something else out of this auditor's report. It says: "In our opinion, although the WCB technically had the statutory authority to enter into this transaction, it did not appear to accord with the spirit of section 64 of the Workers' Compensation Act. The WCB followed an indirect route for the transactions involved in this project. Lengthy and costly opinions from various lawyers and complex commercial arrangements were used rather than obtaining ministerial and cabinet approval for this project."

I wonder if you could explain that.

**Mr Glenn Cooper:** First of all, the government of the day was informed as we moved ahead in this transaction; we always keep the government informed of major transactions. The legal opinions were sought on the basis that in 1987 significant amendments were made to the Pension Benefits Act of Ontario which allowed corporations and pension funds to incorporate subsidiary companies to hold real estate. We, being in the real estate investment business, had inquired of our external lawyers whether or not the board could make such investments, to incorporate subsidiaries to hold real estate investments, because that was part of our regular business.

We had received an affirmative reply because our act allows us to invest in those securities which are permitted under the Pension Benefits Act. The complication here is that you're going from our act to the Pension Benefits Act, an act that was written for pension funds. We are not administering a pension fund. Our funds are funds that were raised and set aside, some of which are paying pensions, but it's not a pension fund. There are some complications involved here in going from one act to another act and interpreting how that act refers to our act.

It's very difficult for me to say what is the spirit of the legislation. I can't tell you what somebody else feels the spirit of the law is, but our views and the legal advice we received said we were within the legislation. We have received at least three legal opinions of that



view. Obviously, as we moved ahead in the transaction—and the transaction, as earlier stated, started in 1990—we have kept people informed of what we were doing. This is the first I've heard that somebody has commented that there's some concern with the spirit.

**Ms Carter:** Of course, the obverse, as they say, is that you did do, I understand, a very thorough job of exploring what was available and getting advice and so on, so you knew there were in fact no properties that would meet your specifications. I understand there was a Royal LePage review of rental properties in the fall of 1990.

**Mr Glenn Cooper:** I think I would refer that question to Linda Angove, who's secretary of the board. She is responsible for that process and was here through that process.

**Ms Carter:** I'm not questioning your decision to have your own building. I'm just trying to bring out some of the processes and the work that was done before that decision was arrived at. If you could elaborate on that, I would certainly be grateful.

**Ms Linda Angove:** Certainly. I'd be happy to. In the fall of 1990 we had a full public tender, calling from the real estate community for a number of options, including lease-only options. At that time, we did not know whether an existing building would meet our requirements, so we looked for both existing buildings and design-build.

Our initial response was 34 submissions, which included a number of existing buildings. It was important for us to meet our accessibility requirements as well as our operational requirements, so that was the first thing we looked at when we evaluated those 34 submissions. The director of internal audit participated in that review to ensure that it was a fair and equitable process and he endorsed the process we used.

We short-listed down to 13 sites that we wanted to investigate more thoroughly, of which four were existing sites in the Toronto area. We went and we actually looked at each of those sites and we evaluated those and short-listed down to four design-build sites. We determined with the help of Royal LePage—and the consultant we utilized was also an architect, so he could tell us quite clearly what was involved in retrofitting an existing building, the cost associated with that and the time involved to do that, so we were well prepared in saying that we could only go to a design-build option.

We went to the board of directors at every phase of this project so that in July 1990, when we decided to relocate, that was approved by the board. In September 1990, when we initially tendered, when we short-listed from 34 down to 13 and when we short-listed from 13 down to 4, each of those steps went to the board of directors, and it approved every one of them.

In February 1991 we recommended that negotiations

occur with the preferred site, which was Simcoe Place, and the board authorized us to enter into two agreements with the proponents of Simcoe Place. One was a lease letter agreement that outlined the parameters of a lease for the tenant, and the other was a co-ownership agreement that outlined the parameters of the ownership position for our investment fund.

Over the next 18 months, we negotiated the contracts associated with both the agreement to lease and subsequently the lease, as well as the co-ownership for the investment fund, then returned to the board of directors with both of those agreements in April 1992, and we obviously received its endorsement to proceed, and in June 1992 we closed the transaction on both sides for both the tenant and the investment side.

**Mr King:** If I might be allowed one brief comment, there was reference to, I believe it was, "expensive" legal opinions. Some of us came into this transaction in the middle of it. I personally felt it my duty and my obligation to properly instruct the board of directors as to whether every part of this transaction met all of the requirements under law and under proper financial management.

1530

I'm one of the ones who looked over two existing legal opinions on the transaction and asked for an independent third opinion, because I felt I owed it to the board of directors to advise it independently. Although these were expensive opinions, this is also a very expensive transaction. It has also proved to be highly controversial, and I think these expensive legal opinions come to show that the board followed the letter of the law to the letter. In fact, I apologize not a bit for bringing forward that third legal opinion, because I needed the assurance personally that the transaction met my own ability to recommend it to the board. Right before the final financing arrangements were concluded, that third opinion was sought.

**Ms Carter:** So this has been a well-researched decision?

**Mr King:** Yes. As a matter of fact, I tried to get Erik Peters, the Provincial Auditor, to show me his legal opinions, but he wouldn't.

**Ms Carter:** Just to sum up, as I said, it is a well-researched decision, and we can be sure that the money is not coming from the pockets of injured workers and it's not affecting the board's unfunded liability and it's not affecting employer assessment rates, right?

**Mr King:** That's correct.

**Mrs Haslam:** I always end up at the end. I understand what my colleague is saying, that you're moving towards a better system and you've done everything, and that's exactly what I wanted to talk about. You had a critique, you've done the review, it involved an action plan, you've involved the workers in that action plan,



and you're looking at continuously monitoring the success, because that was my last question in the last round.

We looked at unfunded liability. You told us the rates are down, so the employers' rates are being monitored and they are not unduly being raised. Your telephone system is better. We've now talked about the better facilities, the fact that this was a July 1990 decision, that you tendered for alternative sites, that the original landlord—I've been reading the official debates on the standing committee on public accounts, where some of the concern was, why wasn't the original landlord involved? It's my understanding that he did not tender as one of the alternative sites, is that correct?

**Ms Angove:** That is correct.

**Mrs Haslam:** Correct. Now, you've just finished saying that there was design-build, four design-build, and you went with the design-build and you entered into those agreements, which begs the question: All of these things you went through, the review, the discussion, seem to be pointing to the fact that you're doing the right thing. What about the penalty? Was that looked into? Was there a penalty?

Given your performance in the past three years, of appearing before us and answering the questions and acting on the recommendations, I want to ask you first of all about the penalties. Did you investigate penalties if you had to get out of this deal when new chairs came in, when a new government came in, and about the recommendations of the auditor's report of June 30, in particular page 14, recommending that you re-examine your relationship with the minister? And I would like your comments on whether you're going to continue in the way you have in following recommendations and acting upon those recommendations, as you've done with all other recommendations until now.

**Mr King:** No one I have talked to will definitively give you the total exposure you would face if you were to break out of the sort of deal that was signed by the Workers' Compensation Board and developers and land owners. But from March 1991, when the board of directors voted to proceed in partnership with a developer and a bank and a property owner to develop the Simcoe Place project, we were locked in. To break out of it following that would have exposed us to—all we can do is estimate the exposure of the penalty.

There was no penalty written into the agreement that showed our full exposure. The chief financial officer and I sat down as a team of two right at the 11th hour to determine whether we did have any options whatsoever. We met with independent lawyers to discuss the legality of the project and we did discuss options available to us if we were to make the decision to walk away or to recommend that the board walk away. The exposure we would have presented the WCB system was quoted in the \$100-million range, so I don't believe

walking away was a viable option, although again that becomes subject to significant debate between lawyers. I'm sure they would have loved to have gotten into that debate by having us walk away.

The second part of the question was vis-à-vis the value-for-money audit of the Provincial Auditor. We have agreed to comply with every recommendation made in that audit report but did indicate that we didn't agree with every finding. There is a distinction there.

The Provincial Auditor recommended that we do three things specifically, and we agreed to do all three. The first was that we return to the public accounts committee at the appropriate time, after construction has been completed and we have moved in, and do a thorough cost-benefit analysis once the real cost is known rather than the estimated cost. We have agreed to do that and look forward to meeting the public accounts committee either in late 1995 or early 1996.

The second recommendation was that we do a thorough report to the provincial cabinet on the transaction, and that presumably meets the breach of spirit that the Provincial Auditor felt we may have been involved in under section 64. Again, we agreed to do a full report to the provincial cabinet on the project from a value-for-money point of view.

Finally, we were asked to clarify the accountability between ourselves and government. In other words, who should be doing what, under what circumstances?

**Mrs Haslam:** Is that under an MOU?

**Mr King:** We have been working with the Ministry of Labour to update a memorandum of understanding. That memorandum of understanding as it presently exists dates back to either 1982 or 1983. We had actually been working on getting it updated before the auditor got involved. We hadn't completed it. The deputy minister and I have met on three occasions now to go over potential wording so that he can recommend it to his minister and I can recommend it to our board of directors and chairman. We're not quite at the final product yet, but we have agreed to comply with the Provincial Auditor's recommendation on a new accountability definition.

**Mrs Haslam:** On a point of clarification just before my time runs out, can we go back to March 1991? When did you and the new chair join the WCB?

**The Chair:** You are out of time.

**Mrs Haslam:** It's a clarification.

**The Chair:** Go ahead.

**Mr King:** The chair joined the compensation board four or five days after the board meeting of March 1991, when the decision was taken to lock the board in. I technically joined the day the board made the decision, but I hadn't heard from the standing committee that approved appointments and therefore didn't know until later on that it had approved my appointment. I was a



board member in fact, but I wasn't present, and Mr Di Santo was appointed effective May 3, 1991.

**Mrs Haslam:** So you were talking about a board decision that was made prior to both of you coming into power.

**Mr King:** Technically I was a board member on the day the decision was made. That was the day my appointment became effective.

**Mr Mahoney:** I have one follow-up question to the issue that I raised earlier in the week on the flooring.

**Mr Bradley:** Oh, I'm glad we're back to that.

**Mr Mahoney:** I've received some additional information today that apparently the engineers and the Workers' Compensation Board are aware of. It's a memo from C-TEC, which is the company you've given the contract to to provide the flooring. It's a memo to all C-TEC dealers and sales personnel. This is the company out of Michigan that has been awarded the contract for the flooring.

**Mr Bradley:** The American company.

**Mr Mahoney:** The American company. I'm told that the specifications in the tender that was put out called for 3,000-pound specifications on the product. This is a memo that was, as I said, put out to all C-TEC dealers and sales personnel. I'd just like to read the operative part:

"Current C-TEC testing has demonstrated that the combination of manufacturing process variables such as steel tolerances, chemical balance of the concrete ingredients, temperature, humidity and test methods can affect the absolute consistency of panel performance at the edge. Certain panels will exceed the CISCA,"the Ceiling and Interior System Construction Association, "CISCA-guided requirements of the 2,000-pound ultimate load at the edge as suggested in our Sweet's brochure, Manuspec and Specdata, whereas there are certain other panels which on an individual basis may fall short of the target load.

"We have several approaches in progress which will consistently meet 2,000 pounds at the centre of the edge of the panel. These approaches are being refined and will have a specific answer shortly. We ask that you continue to promote the Tec-Crete panel."

1540

Apparently the engineers and, according to my information, WCB, whoever that may be, are aware of this particular memo, which would say that the load requirement of 2,000 pounds ultimate load, both in the centre of the panel and on the edge of the panel, is in some dispute here, and this has been admitted to by the C-TEC Access Flooring Systems corporation. Your specs call for 3,000 pounds. The American product will provide, on a good day, it seems, 2,000 pounds, but apparently there's a problem.

Maybe you can't answer this today. If you can, that's

fine. You, Mr King, have stated that, to paraphrase it as a layperson, you wouldn't want to make a recommendation that would have a floor fall in. I agree with that, that the technical people should be the ones to answer this. But it appears the American company is fighting for the life of its product and I'd sure like to know what's going on with this. Would you undertake to investigate it?

**Mr King:** I thank you for that information. I couldn't respond, nor do I have people here who could respond, but I appreciate your bringing that to our attention. If we could have a copy of that, that would help us. Hopefully by tomorrow afternoon, if we resume, there can be a response to that.

**Mr Mahoney:** Yes. I won't be here, but I can get that through the committee. If it's not available by tomorrow afternoon, I would hope it would be followed up in any event.

**Mr King:** You can be most certain.

**Mr Mahoney:** I'll give this to our clerk to get copies, if she wouldn't mind.

On the issue of the building, it seems to me that the issue here is not necessarily, was it a good decision or not? The committee will see tomorrow rather crowded and unsatisfactory conditions—and I don't mean that facetiously—from everything that you've said, the square footage available per employee etc being substantially below the private sector in the insurance business. I'm sure that WCB has outgrown 2 Bloor. I never disputed that, even when the issue was raised, and frankly I don't dispute the value of ownership versus rental. I think ownership makes a lot of sense.

I would wonder about the comments about a high rate of return being 13% when you in fact are the main tenant, occupying 70% of the building, therefore paying 70% of the rent, paying \$26 a foot plus \$19 for common area in a market where, if you were to do it again today, you'd be negotiating a substantially different deal, I'm sure. Hindsight is a perfect science.

Your rate of return is based on an extremely high rent in today's marketplace or even in the marketplace that existed within the last, I would think, 24 months, but 12 for sure. Therefore the rate that you pay as a tenant would clearly affect the rate of return that would be received by you as an owner. You have two hats here: You're an owner and you're paying rent to yourself in the form of 70% at an extremely high rate. In fact, if you were doing the deal today, you'd probably get a year's free rent, a trip to Acapulco, and who knows what else? You'd get a substantially better deal.

I think you can dispute those issues all day long and say, "If you had known what the market would be" etc. In fact, let me just finish that by saying I'm sure you would agree that if you were doing the deal today, \$26 and \$19 would not be the deal you would cut. You



would likely get a substantially better deal in the marketplace today, based on interest rates, based on competitiveness within the marketplace. If you don't agree, you can tell me that, but I'd be surprised to hear that.

My concern is that when a committee examines an agency, frankly, it's too late: The horse is out of the barn, the door is shut; you're not going to stop the building. I hope that if I'm able to shed some light on improprieties in the flooring contract, maybe there's a shot that we can review that, but you're not going to stop the building. I accept that.

My concern is, what process is involved with a government agency in making decisions of this nature? You, Mr King, were not here when the decisions were made. The authority to go and look at alternatives was given by the former government. Beyond that, there was no authority given and the decisions were made, and I'm told by your chief financial officer that the government was kept informed throughout the process, I believe is what you said, of the decision-making process on the deal.

I asked this question in the Legislature and got their arm's-length answer, their don't-want-to-touch-you answer when they don't have an answer, but I'd like to ask it, Mr King, to you. Section 64 of the act is put in there and it says that cabinet approval must be obtained—I don't need legal advice on this, and I'm not a lawyer; common sense applies here—"to purchase or otherwise acquire such real property as it may consider necessary for its purposes."

Common sense says if you're moving out of 2 Bloor into Simcoe Place, you are acquiring that in some fashion for your purposes. You're replacing your administrative offices. What it seems to me the board attempted to do was to interpret this acquisition more as an investment that would show a great rate of return of 13% rather than an acquisition for the board's purposes. It was as if they took some of their pension money, the \$6 billion in assets that you have and that you invest in various things in a portfolio. I assume you have professional investment counsellors who would advise you on certain areas that you may or may not or should or should not invest in to get the best return on the buck out of that \$6 billion.

If somebody here was advising you that a good rate of return, 13%, could be obtained by investing in Simcoe Place and it's a straight investment that you're not acquiring in any way whatsoever, then my interpretation would be that you could get around the requirement of section 64. "It's strictly an investment, we're making an investment, we have the authority to manage our funds under the act."

But it clearly says "to purchase or otherwise acquire." You're entering into a joint venture agreement with a developer and a bank, I believe, to acquire under lease,

and eventually ownership, under a long-term agreement, this facility for your purposes. The fact that it's an investment is a bonus to you. The fact that it shows a return is a bonus.

Having told us you were not part of the decision-making process but that you did seek additional legal approval, could you tell us, as members of the loyal opposition, how we are supposed to accept an explanation that says that the board effectively went around the requirement for cabinet approval, that the board did not break the spirit of section 64 of the act? I don't see how anybody could interpret it any other way.

**Mr King:** Obviously, you're met in your views on it with those of the Provincial Auditor, who himself felt that the spirit of the act had been broken, if not the letter of the law. I think you've raised a question which has to do with accountability, which has to do with authority and which has to do with how legislators are to hold its agencies accountable for the rights they're given under the law that governs them.

I had indicated earlier that we have a property out on Highway 400, the Downsview property, which involves an acreage and a building that dates back into the 1950s. That is a real property that we own and that we utilize exclusively and have utilized exclusively for purposes of rehabilitating injured workers. The board decided some years ago that it was no longer useful for that, that it was better to decentralize and have that property up for sale. That property sale would be subject to the approval of the Lieutenant Governor in Council under section 64 because it's a property that was exclusively utilized by the board of directors for its business, which is the compensation and rehabilitation of workers.

**1550**

As I understand, and I don't pretend to be a real estate lawyer or one who interprets statutes beyond the jurisprudence that I've been involved in, the advice is that the Simcoe property is not defined as a real property under the act, that it is not used exclusively for the board's business, that it is an investment and that the board is leasing from an owner of a building. If that is too close to conflict, which you and others have thought it was, then I probably would go so far as to say the board could have and possibly should have gone at some point in time and sought the authority of the Lieutenant Governor in Council. It seems to me if what you had spoken of earlier holds true, which is that the board has appointed to it people in a governance position who are directly answerable to government, then there should be no difficulty in these sorts of things if there was to be a cabinet approval, for instance. But I wasn't there and I don't know all of the circumstances.

I do believe I can give you some light on the subject. The board and the stakeholders to the board want to



separate the compensation system as much as possible from the government. You as a legislator might not want to agree with that, and that's where there may be a conflict.

**Mr Mahoney:** It would sure lighten my workload if that happened.

**Mr King:** The rationale from that is not to be cocky, not to be arrogant; the attempt is to make the workers' compensation system a system which is owned, and therefore the decisions are made, by the stakeholders. With the aforementioned Premier's Labour-Management Advisory Committee, the employers and the unions and workers there are trying to figure out a way that they can be made responsible and held accountable for this system so that it does not come back on to government all the time as being this nightmare for government. Every government in Ontario has not been happy with its workers' compensation system. I think Simcoe Place is one example where the stakeholders are trying to exert their independence, to show that, "We want to run this place." Now, that might be coming in conflict with both yourself, who feel we should be more accountable, and with section 64, although I believe that's a spirit question rather than a legal question.

**Mr Mahoney:** I think there's a point to that, if I could just add, because I think you raise a valid point. I certainly have sensed that there is an attempt to sort of flex the muscles and be independent. That's a debate that should take place in a forum just like this, frankly, or perhaps through the reform process, if there's one that is established.

But I immediately run into the concern that—Mr Di Santo's not here so I won't be critical with him not here, but he did say there was no taxpayers' money in this. I inferred from comments you made that you somewhat disagree with that, that at the very least it's public money if it's not tax money. You can make an argument that says that the employers must pay the rates—they have no option in the matter—and therefore call it, as I said before, a premium, a rate or a tax. It's not an option they have: They can't even go to another source to buy the same coverage, and if they could you could at least say is less of a tax.

But it's clearly public money. So when it's public money, regardless of what government's in power, how can you have an agency exclude itself from public jurisdiction?

**Mr King:** Again, that's a subject that has been debated and is being debated in Ontario right now, not at the legislator level at present, but one might predict that it might become a debate at the legislator level, because the clients of the WCB, the stakeholders, are taking very seriously the need to accept ownership. By that, I don't mean the ability to build \$178-million towers on Front Street—

**Mr Mahoney:** Let's hope that's all it is.

**Mr King:** —but the necessity to own the problem of a \$400- or \$500-million difference between revenue and expenditure per year, which has ultimately resulted in an \$11-billion unfunded liability. The ultimate consequence of what was discussed yesterday or Monday on governance is that Mr Di Santo may not be the choice of the board of directors for chairman, and he understands that, yet he supports the process of reform which may lead to his job disappearing. I as well support the process whereby the stakeholders assume ownership of this program; I ultimately am supporting myself likely being out of a job.

But I don't believe you can make the parties responsible—who have made your life difficult, who have made the lives of every government difficult, because they can do that through their lobbies—unless you can get them to accept ownership. I can't solve the problem of \$11 billion, nor do I believe governments can, because they have tried mightily in the past.

I think the question of accountability of such an agency is *the* question. Are you going to allow the parties to be accountable, and how are they then going to be accountable back to the Legislative Assembly through a committee such as this? I don't know.

**Mr Mahoney:** The real ownership, though, is the people who pay for it, ultimately. Ten years ago, those people accepted a very substantial increase in their rates with a view to getting the fiscal house in order. They sit there today and say, "Why did we agree to that?" because the opposite has happened. Through all three parties being in office, the opposite has happened.

**Mr King:** I happen, although please don't quote me as being counter to Mr Di Santo's position, to come closer to your argument that there is only so much money in a closed economy. That money can only go to those who are working, to capital which has money to invest, and to those who aren't working, so if we as a compensation board take money, through the taxation on employers, out of the system, that means there's less to go around in things like collective bargaining, in the wages and salaries of workers and in the taxes that those corporations and workers pay. But these are incredibly big and complex questions.

British Columbia has achieved a model whereby the board of directors is equally bipartite. The chair is picked by the board of directors. The vice-chair or the president is picked by the board of directors. The government has a more hands-off relationship.

I don't believe government can ever be totally hands-off. How you want that accountability, whether it be through an annual report, whether it be through grilling, or polite questioning, at committees like this—

**Mr Mahoney:** You get the polite stuff from them enough.



**Mr King:** —or from the Provincial Auditor's reports, I think that's a subject for you to decide, not for bureaucrats.

But I'm admitting that it is a serious problem. It's an evolving problem, because I think you're going to get requests from your stakeholders, industry and labour, to, "Let us own this system, because we're the ones hurt and we're the ones paying." You have choices to make then.

1600

**Mr McLean:** I have a couple of policy items I'd like to clear up, and then I have a few questions about another area of concern I have. It has to do with the following:

"The concepts of compensability and work relatedness have been adjusted so radically and quickly that business has lost faith in the system.

"In the eyes of the average business person, the workers' compensation system has long abandoned the requirement to establish 'work relatedness,' allowing the program to become an employer-funded general insurance scheme.

"As the requisite to establish 'cause and effect' between injury and employment has waned, injuries bearing no reasonable relationship to the employment have been routinely accepted, undermining the very premise of the Ontario workers' compensation program.

"The policy proposal 'Entitlement in the Ontario Workers' Compensation System,' rather than offering a remedy, instead widens the breach even further, diminishing any expectation that in a true sense, the injury must arise out of the employment.

"It is improper for the Workers' Compensation Board, through its own resolve, to set out to redefine compensability in this manner."

Can you elaborate on that very policy I just stated?

**Mr King:** I think you've struck to the very core of the problem we have as administrators in the compensation system. You, as legislators, have given us the following interpretation to make in law. You have said that we shall compensate for disablement "arising out of and in the course of employment." That wording comes from British parliamentary statute and it has been debated in courts in Britain and it is the subject of volumes and volumes of writing and of precedent.

Basically, what it means is that my old metaphor of the machine falling on the worker is no longer the case we end up having to adjudicate; that's less than half of the cases. We're good at that: If a machine falls on a worker, we can say, "Yes, that happened at work." What we're asked to do now is to adjudicate a worker walking up a sidewalk on a Monday morning and it's icy and they slip and fall and break their leg, and they're right outside the plant door. Is that a disablement arising out of and in the course of employment? A

worker does an action with his or her elbow 50 times an hour while at work and that elbow gets sore. We're asked to define whether that occurs arising from work when in fact you know that they go out and play tennis at night and perhaps they curl, so you mix up personal lifestyle and work.

This isn't easy stuff. If you think I would like to adjudicate chronic stress, I assure you that would be the last thought in my mind as an adjudicator. I've tried, and what happens is that someone comes in and says, "My dog got run over, the boss yelled at me today, I'm behind in my mortgage and I've just had a breakdown," and I'm supposed to decide whether that arose out of and in the course of employment. I'm afraid I'm not that good an adjudicator. We don't need these problems, necessarily. We were given this problem by the statute.

Some provinces in Canada have tried to clarify that. That may not be a solution for Ontario. Manitoba clarified it by changing the law to say that work must be the dominant cause of a work injury. I don't know what that means. That's subject to a lot of debate and litigation. Manitoba as well said that stress over time is not a proper subject for a compensation claim. Again, that is a limiting factor.

**Mr McLean:** I guess the bottom line, Mr King, and what I'd like to find out, is what percentage of the claims you handle would be in a category such as that and what percentage of the claims are truly work-related?

**Mr King:** Everything we accept is truly work-related. Of the claims, however, that are filed with us for adjudication, less than half of them fall under the category of a sudden event occurring at a point in time which one might typically define as an accident.

About half the claims are for so-called soft-tissue injuries: for repetitive traumas, for the tenosynovitis, the carpal tunnel syndromes, the sorts of things that result from the modern workplace where there are repetitive actions such as for cashiers in grocery stores. To pretend those aren't harming workers is to blind yourself to reality. Anyone who watches a cashier and talks to a cashier in a non-compensation setting will know they end up having aches and pains which ultimately can become disabling. We have to face this question as an administrator. Now, you as the legislators can change the law.

**Mr McLean:** But the small businessman is the one who's really concerned about this.

**Mr King:** The business person has some way to deal with this. I was reading the American Compensator this morning, and it said that businesses can truly affect their costs, number one, by prevention, and it specifically dealt with ergonomics. It said that by looking at the way you cause your workers to do their work, you can reduce the number of compensation claims.



We all know that for people who work keyboarding, simply giving them a wrist support, giving them a proper chair they can adjust, giving them a proper workstation which they can adjust, giving them a footrest, can reduce claims by 70% and 80% for strain, so the employer can affect these. Where the employer is frustrated is when they don't feel they're to blame for it, when they don't feel they're to blame for something falling out of the sky and landing on a worker and we accept a claim.

**Mr McLean:** I have a final question in this area. The average rate is \$2.96. The information I have with the base strategy minimum terminal financial indicators indicates that by 1995, it will be an average of \$3.88. Is that what the projection is?

**Mr King:** I believe that's the projection Mr Di Santo gave you before the luncheon break. That, I want to stress, is what is called the target rate. That is the rate we would have to charge if we were to provide sufficient funds to pay for the new claims that occur in a year and to pre-fund the future costs of all the claims and to make a payment against the amortization of the unfunded liability. But the board has not met that target rate since it first brought in the funding strategy in 1984.

I'll make one more plea. This should be non-partisan, because I think you go across governments of all political stripes that have not been able to come up with the proper formula for solving the funding of the compensation questions. I can take you back to 1983 and 1984 when that target rate was set; it has never been met and I expect it will not be \$3.88 in 1995.

**Mr McLean:** So we're anticipating close to a \$1 increase within the next two years.

**Mr King:** No, we're not anticipating that. I've just indicated that I can foresee no circumstance that the board would raise the rate that high over two years.

**Mr McLean:** What is the value of the Downsview site?

**Mr King:** We have it for sale right now, and I would predict that the price can only be determined by the market.

**Mr McLean:** There will be an evaluation on it, I'm sure; I'm sure your board will have it valued because you want to know what you're going to ask for it. Is it \$2 billion or \$4 billion? There's a fair bit of land there and I know what property's worth in that area.

**Mr King:** There are many options for disposing of the Downsview property. If we are able to find an institutional buyer that can utilize the existing building and adapt it for its purposes, it would be prepared to pay us more than someone who's going to tear down that building. There are zoning problems. There are problems of access because Torbarrie Road did not go through north-south. Although four or five years ago

there was a valuation placed on the building, that valuation would not hold up in today's market.

**Mr McLean:** Perhaps you'll have one for tomorrow afternoon.

**Mr King:** Can I suggest that I can't have one for you, because I don't believe we can have one until a buyer comes along and says, "Here's what I'm prepared to pay," and unless we get a price that the board determines is acceptable, we won't sell it.

**Mr McLean:** What is the appraised value for insurance purposes? Maybe you could have that for tomorrow, because there will be insurance on it. There will be liability on the land but not the building.

**Mr King:** I'm not too sure, and I ask the committee for some guidance here, but we have a property for sale right now. We have it listed with a private agent. That agent has been asked by us to go out and beat the bushes, if you can understand, to find a buyer. I don't think we should discuss either an appraised value or our own strategy for how much we think we should get for it. I would not like to influence the market out there, which may be looking at the property and may get some edge if they happen to read this proceeding.

1610

**Mr McLean:** I have a question for the accountant. You indicated \$6 billion in real estate and bonds. How much money is in bonds?

**Mr Glenn Cooper:** We have a holding of bonds or coupons or strip bonds that exceeds \$3 billion.

**Mr McLean:** As to the architect who was with you when you were looking at the different sites and recommended that you go ahead with the new site, is he the one who got the job to recommend for the design of the new building?

**Ms Angove:** No, he's not. The architects for the new building are Norr architects, and they were selected by Cadillac Fairview some years ago when the project was put together. The architect we used was with Royal LePage Real Estate consulting services, quite independent.

**Mr McLean:** Have you any idea what you have with regard to extra work orders, responsibilities in that line? Is that pinned down or is it going to be like the Dome, where there was no end of it?

**Ms Angove:** We have a number of checks and balances to monitor the construction of the project and we monitor every change order. The agreements we negotiated allow us to have some say over change orders of a certain magnitude in terms of cost, so there's some restriction in terms of what can be approved in the way of change orders and they're monitored very closely.

**Mr McLean:** Who owns the land the building is going to be built on?



**Ms Angove:** The CBC.

**Mr McLean:** What percentage of the building will the WCB occupy?

**Ms Angove:** Seventy.

**Mr McLean:** Who is responsible for renting out the balance of the building?

**Ms Angove:** The co-owners are. It's being done through Cadillac Fairview.

**Mr McLean:** Who will carry the cost of any unrented part of the building?

**Ms Angove:** The three co-owners.

**Mr McLean:** Did your agency require approval from any government agency, like the cabinet or ministry, with regard to the building of the new building?

**Mr King:** We did not seek approval from anyone but the board of directors of the Workers' Compensation Board for the construction of the building. There was no approach made to the cabinet. I can only answer from the day I was appointed as to whether there were approaches made to a minister for approval, but I've been told there was no direct approval sought through any minister. There may have been information presented.

**Mr McLean:** Will you be cashing in some of the bonds to get the money to build the building or where will the funds be coming from?

**Mr Glenn Cooper:** At the present time, we anticipate using a \$100-million mortgage to pay the first \$100 million of the \$178 million. We will look at using the cash short-term investments we have available or putting additional mortgage on the facility. We have a commitment in place for the first \$100 million, and in fact the \$100 million could increase by another \$32 million.

**Mr McLean:** Wouldn't the use of your bonds be more available and less expensive than borrowing and putting a mortgage on it?

**Mr Glenn Cooper:** While we're borrowing, we're using other people's money, we're using leverage; therefore, we are still getting the return on our own funds plus we're getting the return on somebody else's money that we're borrowing. There is an advantage to borrowing money.

**Mr McLean:** What do you estimate the cost to be for the new computer equipment that will be installed in that facility?

**Mr King:** We would not be buying any new computer equipment as such or per se for the new facility. We have the equipment available right now. We may have a beefed-up security system. We may have a dual outlet outside of the building in case one of them is damaged. Those are being planned into the new building. We may move the mainframe into the new building, but there will be no new equipment necessary.

There will be pre-wiring. That's all a part of the total cost of the project, however.

**Mr McLean:** Will the furnishings be part of the tender for the new building or will they be extra?

**Mr King:** The Workers' Compensation Board has gone out and done an ergonomic study of the workstation requirements. We have a generic furniture supplier where we've tendered for furniture. We will not be buying new furniture for Simcoe Place. What we will be doing is replacing furniture as we're doing right now when old furniture becomes either unhealthy for workers or broken down. We're replacing it with this new generic furniture, but we will be moving existing furniture and it will be the normal lifespan that will determine when new furniture comes in, although my couch is getting damn shabby.

**Mr McLean:** What have you been paying a year for the lease of the present facility you're in? The accountant will probably have an answer to that.

**Ms Angove:** The cost per square foot?

**Mr McLean:** For the total.

**Mr Glenn Cooper:** The cost per square foot varies considerably because we're in a number of different locations. We're primarily in 2 Bloor East. The original lease was in 1974; we went into a fixed lease at that time. The average cost is around \$14 a square foot, between \$14 and \$15.

**Mr McLean:** That's what you paid last year?

**Mr Glenn Cooper:** Yes.

**Mr McLean:** What do you anticipate it will cost for the accommodation of the new building per year?

**Mr Glenn Cooper:** The square-footage cost will be \$25 a square foot and it's fixed for 20 years starting in 1996, so 20 years from there it's fixed at \$25.

**Mr McLean:** I have read somewhere it's going to cost about \$385 a square foot. Is that to build it?

**Mr Glenn Cooper:** That is not even the cost of building it.

**Mr McLean:** What was that figure for?

**Mr King:** The figure of \$380 was in a motion that came from, I believe, the public accounts committee to have the auditor look into the WCB. Nobody I've been able to talk to yet can figure out where a figure of \$380 a square foot came from. It may have been intended to be the cost of building the facility, but it didn't even bear any relationship to that. None of us has been able to figure out where that came from except from a member who said, "Because it costs \$380 a square foot, we should investigate it."

**Mr McLean:** Of the sites or buildings that you looked at, what was the closest one to being purchased in terms of a facility that would have accommodated your requirements?

**Ms Angove:** Do you mean of the existing buildings



we looked at? None of them met our requirements. None of them came close in terms of the elevator capacity, for one, and the mechanical, electrical and cabling capacity. They just could not be modified at a reasonable cost for us to even consider it. In each case, it was cheaper to go to a design-build than to try to retrofit an existing building.

**Mr McLean:** Then why do we hear daily, with regard to this very building you're building—I spoke at Rotary yesterday and that was one of the very questions I got: "Why are they proceeding to build this expensive building, because they could have rented?" There's lots on the market that could have been modified to have been suitable for what you need.

**Ms Angove:** If I can speak to that, we had a very thorough review of the real estate market, particularly existing buildings. Not only when we did the tender but periodically thereafter we would ask Royal LePage to tell us what the market had: "Is there any building out there that could accommodate us?"

It is true that there are 20 million square feet of vacant office space in downtown Toronto. The problem is it's dispersed throughout the city. The average size of available square footage that can be leased in downtown Toronto is 6,000 square feet; that's less than 10,000. We are looking for half a million square feet.

It's true that some buildings may have 100,000 here and 100,000 there, but clearly it's detrimental to the operation to split it up all over the city. That's our problem today. We have people and leases all over the place. We're trying to consolidate it. We know from studies we've done in the past that it costs us more to operate in decentralized functions than it does as a centralized facility, and that is why we are looking for that amount of square footage.

**Mr McLean:** If your board of directors anticipated and thought that this was the proper way to go, they've certainly done an awful poor job of PR work to let the public know what you were doing.

1620

**Mrs Haslam:** Actually, I had a couple of questions and I'm only going to ask one. When we're talking about the new building and we seem to be looking at the benefits to you as a board, and the decision and the process you went through and what was available and what wasn't available, as a government we're very interested in jobs and I wondered if you had any information on the number of construction jobs, the number of person-years in jobs it's going to mean to the economy to build at this time.

**Ms Angove:** We estimate with the assistance of Cadillac Fairview that approximately 200 to 300 construction jobs will be created with the project. In addition, obviously several other jobs will be created in manufacturing of raw materials etc. It's difficult to

estimate what that number is.

**Mr King:** Right now it's the only major construction project under way in Metro. If I can cheat a little bit and respond to Mr McLean's question that I wasn't allowed to because we ran out of time, of course it doesn't look perceptually or optically all that great to be having the only building going up in downtown Toronto right now. Of course there are landlords out there bleeding and suffering and who are militating against us doing this.

Number one, we've saved over \$22 million in the construction costs because of that economy and because the tenders have come in a lot cheaper, but it's not very easy to explain to the person who's lost their job or who's afraid of losing their job that we're building a new office building, especially when there is so much rhetoric surrounding the building. I'm not too sure any public relations campaign could explain this right now, although I grant your point that we probably didn't do a good enough job in explaining ourselves.

**Mrs Haslam:** Mr McLean would have complained about the amount of money you spent on tooting your own horn at the next committee meeting, so don't worry about it.

**Mr McLean:** On a point of privilege, Madam Chair: Mr McLean is not usually one to complain at all; he's usually very positive.

**Mrs Haslam:** I haven't noticed. Oh, I'm sorry, Mr Bradley would be the one. Excuse me. The two of you look like twins; I got you mixed up.

**Mr Bradley:** You'd be following government policy if you did that.

**Mrs Haslam:** I'd like to ask a little bit about the auditors. I've been reading the special auditor's report from June 1993. As an arm's-length agency, are you audited on an annual basis?

**Mr King:** Yes, we're subject to audit by the Provincial Auditor annually.

**Mrs Haslam:** This decision was made three years ago in July 1990, so the decision was made and everything was put in place. I'm interested, did the auditor mention anything about this decision in any previous audits?

**Mr King:** The propriety of the transaction or the legality of the transaction had not been previously mentioned. As a matter of fact, the company that ultimately ended up as the real estate holding company, the numbered company 799, had been specifically audited by the Provincial Auditor's office in 1990, at which time the Simcoe Place development was known and it was known that 799 was going to hold the Simcoe Place. There was no mention of any impropriety, any breach of any spirit of law, any breach of any Management Board of Cabinet directives, so we had, I suppose, some right to believe that we had the transac-



tion, subject to the special audit that was ordered by the public accounts committee.

**Mrs Haslam:** Does the auditor look at the investment part of the WCB?

**Mr King:** The Provincial Auditor has looked very closely at the investment part of the WCB and in fact has made specific recommendations to make sure we can be secure in the way those investments are handled and accounted for. I believe, if you wish to know further, I would defer to my colleague Mr Cooper.

**Mrs Haslam:** I'm just interested that you're using the money from the investment fund and, as this happened three years ago, it seems that out of the blue they're saying: "Wait a minute, wait a minute. Value for money." I'm wondering what the auditor said about your investments prior to this.

**Mr Glenn Cooper:** In 1990, the Provincial Auditor's office conducted an audit of all our investments. It was a special assignment outside of their normal audit of the financial statements. As Mr King said, there was no mention in that audit about the incorporation of the subsidiary company that holds the real estate for the tower that's being built on Front Street, so it was never brought to our attention.

Certainly, in this most recent audit for public accounts, the Provincial Auditor was asked specifically to look at that specific transaction. Presumably the audit was far more detailed, and there were maybe changes at the Provincial Auditor's office since that time and maybe there's a different view; I don't know.

**Mrs Haslam:** What I'm saying is, does the auditor usually make comments on what you invest that money in, and whether you always make a profit, that kind of thing? Is that his job? Does he do that?

**Mr Glenn Cooper:** As part of the audit of the annual financial statements, he would not make comments specifically on types of investments or second-guess investment decisions. He would only conduct that type of audit if it was requested by a committee of the House.

**Mrs Haslam:** Those are all the questions I have at this time.

**Mr Waters:** I'll take over. The discussion on the building: It's my understanding that the commitment that was made in 1990 for the building and the available space of that day versus the available space in 1992—to make it very clear, would that not be like comparing apples and oranges to start with?

**Mr King:** I bought a house in Ontario two and a half years ago when I moved here and I would rather I bought a house today in Ontario. I think that should answer your question, that I've lost considerable equity that I might have had in that house. That applies perhaps more so to the commercial real estate market, that it was overbuilt, than it does to the housing market.

**Mr Waters:** Something has bothered me as I've sat here this afternoon. It's a tone, it isn't something that's said, but I get the feeling that there's an assumption that every person who goes on WCB is abusing it or is looked at as an abuser when I hear people posing questions like, "Gee, the employers are paying too much." In fact the other day, Ms Witmer said something like—just a second and I'll go back to my notes—"too much money is being expended on compensation."

I have to tell you, people don't go out and lose an arm and a leg, or a 15-year-old girl doesn't work in a corner store at minimum wage and come to Toronto with a meat grinder on her hand for the love of it or to get some compensation. I hope the members across start to understand that most people who are applying for compensation have very valid claims. It may not be something that you see, but damn it, you were injured at work.

I get very frustrated with this, and that leads to a question. This is a case where a young girl out there at age 15 was working in a corner store, and on her last day on the job she had her hand caught in a meat grinder. She did come to Toronto with a meat grinder on her hand. What kind of compensation does she get for the rest of her life? Is it based on minimum wage as a 15-year-old girl working in a corner store, or is it based on a young girl who was an A student in school who had the potential to do whatever she wanted in her adult life when she finished her education?

1630

**Mr King:** The workers' compensation law limits you rather significantly to compensating on the basis of the earnings at the time of injury. If someone was on minimum wage at the time of injury, he or she may have that hanging like an albatross around the neck for the rest of his or her life. There has been some attempt in Canadian compensation and elsewhere to take into account that earning profile varies according to your experience on the job and your years on the job. Some acts allow the compensation board to adjust the earnings of the worker, who is in a lower-skilled job while young, at various points in time.

If you know the construction industry, those who begin working in the construction industry start out as first-year apprentices. They may be only earning 50% of the journeyman rate, and maybe 60% and 70% as they work through. Some acts contemplate that the board can raise their earning profile to the journeyman rate, at such time as they would have achieved that, to give a fairer compensation.

The way we have to work around that is through rehabilitation. We have to maximize the potential. We have to give the worker sufficient ability to go out and overcome whatever handicap caused by that meat grinder, or whatever else it is that caused the problem. That is our job.



**Mr Waters:** I know this young girl quite well. Given this young girl's situation, within five weeks this young lady was out teaching downhill skiing. She is now a silver medalist in disabled Olympics. This is a person who didn't lose her arm and retreat into herself. But I can tell you, as a teenager, first off, it destroys your social life and your standing in society with your peers. Secondly, the potential this person had with two hands versus one, because she lost her right hand and she had to learn to write all over and all of that—there is no way the system, as it exists today, compensates that young lady in a fair and equitable fashion for the rest of her life with her potential loss.

**Mr King:** The only response I can give is I can conceive of no amount of money that can compensate for the loss of a hand to a teenager, so all we can do is the best we can do with the programs we can design to try to make up for that loss.

**Mr Waters:** I see an old friend sitting back there with her hand up watching the proceedings. I have a question, actually, that maybe she's the one to answer.

I had a plant in Muskoka that closed down a few years back. The plant had been there for about 15 years. As we all know, latency period for airborne problems is somewhat longer than 15 years, so since the plant has closed down 20 out of approximately 100 to 150 overall employees in that period of time are either dead or dying from airborne disease.

The question is, is this just the tip of the iceberg? There have been so many of these places: They know what the latency period is when it comes to plastics and some of those wonderful weird chemicals that are floating around the plants; they knew what the latency period was with asbestos. What they're doing is moving to another jurisdiction to disperse that workforce, and then I believe the new employer of that person ends up paying the cost of the previous employer. I'm wondering if we're just seeing the tip of the iceberg, or if you can give me some hope. Linda, it's yours.

**Ms Linda Jolley:** Linda Jolley, senior vice-president of strategic policy and analysis division.

I don't know what the exposures were in the plant. If the workers all died of a similar disease, one would expect that perhaps—

**Mr Waters:** Heart and lung.

**Ms Jolley:** Heart and lung. Perhaps there may have been an exposure there that may have caused that disease, and it would be certainly important to investigate that.

When a plant closes, however, the costs of the occupational diseases, when they get recognized, actually get spread over the great group that's left behind. That's one of the problems in occupational diseases, because a lot of the diseases we're compensating presently in the province of Ontario are out of the

mining industry, out of Johns-Manville, for example, out in West Hill that are long since gone. That cost is being left on the rate group that's left behind, and it's a real problem in terms of the long-term funding of diseases.

**Mr Waters:** And hence it adds to the unfunded liability and all of those things we face. We have employers who know what they're playing with. In my old life I used to get the brown envelopes the same as the opposition gets them now, and you would get the information that would say this stuff is bad, but just try to prove it.

**Ms Jolley:** I think that with WHMIS, the workplace hazardous materials information system, the obligation to inform workers of the hazards is a lot stronger, and that's helped, certainly.

**Mr Waters:** While I have you at the table, I have one last question and it deals with this, whether the employer runs or whatever. As we get into these sophisticated plastics and different compounds that are in the workplace, in 20 years—well, now it's probably down to 10 years—I feel we're going to see a major influx of a number of airborne diseases. Is the WCB or is anybody out there working at dealing with that at this point in time? Is there a strategy?

**Ms Jolley:** I think there's a strategy being worked out as a result of the provincial task force that the Ministry of Labour set up, and that is to look at: Who is doing research? How can we identify new diseases? How can we then develop guidelines to recognize those new diseases? And then how do we actually set regulations and standards to prevent future disease on that?

One of the problems is that we have been focused, in the past, on individual toxic substances. We may know what an individual one does, but we don't necessarily know what the soup of them do together. The testing that's going on presently is a lot more than it was in the past, and that's probably as a result of the liability law in the United States. The third-party lawsuits that have been going on have forced manufacturers to do a lot more testing to see whether their products are safe, to protect them from liability.

**Mr Waters:** In essence, our manufacturers aren't doing it, but the US is doing it and therefore we benefit from it in a lot of cases; not in all cases.

**Ms Jolley:** I think they're the major producers of the chemicals as well.

**Mr Waters:** I believe Ms Murdock had a quick question, so I'd better leave her some time.

**Ms Murdock:** I don't think it's for you, Linda. Thank you very much, though.

It's in regard to the financing of the actual deal that was made over 20 years. A lot of people are equating the deal to their own experience on a residential basis rather than on a commercial basis. I don't know much



about it either, except to say that I recognize that a 20-year lease or co-ownership plan, whatever, is quite unusual, that it doesn't usually last that long—am I correct?—in the commercial end. Also, there's the interest rate: The general perception is that people think the interest rate is quite high in comparison to their own residential rates, so if you could explain that.

**Mr Glenn Cooper:** In commercial real estate, if you have a tenant that is fixed for a term of 20 years, like our situation here where we have a 20-year fixed rate, you want to mortgage the property for a similar term. By fixing your finance for the same term, you fix your revenue stream, you fix your costs; then if you fix the spread between the two, your return is known. That's basically what we've done here. We've fixed our mortgage rate.

To go out for 20 years and to take a mortgage that will not start for a couple of years after the building's started, it was 10.25% to get \$100 million. That was the best available money in the marketplace at that time. We wanted to make sure that funding was there before construction started. The construction started on the building in February. We received this funding commitment in January. You can always second-guess a funding decision after it's made, but I can tell you that the developer, Cadillac Fairview, was responsible for arranging the financing on this transaction. They have an interest in the property. The financing was subject to approval by the major bank that was also an investor in the property. They agreed with the financing.

We also had a say in financing. We agreed with the financing, but we also went out to independent financial advisers to determine if that was the best financial advice. We received two opinions that it was the best available in the marketplace and it should be the proper financing that was pursued.

1640

**Mr Mahoney:** I don't know who would like to answer this, but I'll just throw it out. If we had a chance to do this building over again, start right from scratch, would you do it differently, from two angles: (1) from the process of getting approvals or dealing with the government, and (2) from a financial perspective?

**Mr King:** I think that's probably too speculative. In terms of the credibility of the WCB, and I believe it was Mr McLean who raised that issue, it has not done a lot for the credibility of the WCB. I'm not too sure what costs you can put upon something like that, but I couldn't speculate on such a question.

**Mr Mahoney:** Financially?

**Mr King:** No, I was commenting that it's clear that the credibility of the WCB has not been increased or raised by this controversy, and that has caused us considerable concern. What that has meant to us finan-

cially I think I can only speculate on. I back this as a good business deal. The timing is not the best from an optics point of view, and I'm not too sure what that means and what that credibility loss or that credibility problem does to us, and that's my problem in answering this. It's a good business deal. Does it look good right today? I don't think the public believes so. I believe that some of the public thinks this is not a good deal.

**Mr Mahoney:** You used the term that you were concerned about some of the rhetoric. I think, Mr King, it was you who said that it has perhaps caused the deal to look worse than it is. Do you consider the report of the Provincial Auditor to be rhetoric?

**Mr King:** I had referred to the \$380 a square foot, for instance, as an example of a figure that is sort of like the \$500-million fraud, which nobody really knows where it came from either; it fell out of the sky and everyone started to quote it.

Do I consider the report of the Provincial Auditor rhetoric? I've had long discussions with the Provincial Auditor about the role of the Provincial Auditor. I've had a good deal of experience, for 20 years, with auditors. Auditors are there to assist managers in understanding the problems they have in managing, and it's vitally important that a very close relationship of trust develop between auditors and managers, because you don't want managers stonewalling auditors.

Managers can be strongly criticized without having subjective opinions brought to bear. I find too many subjective opinions in the Provincial Auditor's report, and I disagree with them and I've told him so. I don't necessarily find it to be a normal audit report that I have been used to. I find that someone who is in an audit function who finds someone to be in breach of the spirit of the law—I find that to be a subjective opinion and I've told Erik Peters so. His response was that it was his belief that because he was ordered by the public accounts committee to come in, he could not report like a normal audit report might.

**Mr Mahoney:** There's been a change, though, in what we in the Legislature expect of our auditor over the last several years, mostly fuelled by the federal auditor, in the way the federal auditor has responded, being extremely critical of government, whichever government is in, going through government agencies and ministries and being very detailed and very critical and very outspoken.

I think there was a sense that the Office of the Provincial Auditor in Ontario was somewhat less than that, was perhaps a little too tame, was just giving those, the term I used earlier, generic remarks that say, "We've looked at it" and sort of disclaimers. There was, I think, during our time in government, through the public accounts committee when Mr Phillips was the Chair, a real desire to have the Provincial Auditor be more caustic, to be more candid, to be more forthright



when investigating agencies and ministries. You, coming from other provinces, may not have experienced that, but I think as a result that is more the expected role that legislators have of their Provincial Auditor.

That's just a comment about why I think that has resulted. You certainly have a right to disagree with his report, as do I, as does any member of the Legislature, but I would hope you would not categorize it as rhetoric. I would categorize as rhetoric, perhaps, the figure given out in error of \$380 a foot. I don't know where that came from either. I suspect it was in relationship to building costs, but even that wouldn't make sense, so I don't know where that came from.

**Mr King:** I did not call the Provincial Auditor's report rhetoric—

**Mr Mahoney:** That was my question.

**Mr King:** No, I do not consider it to be rhetoric.

**Mr Mahoney:** In terms of another issue related to the building, there were three people invited to bid on the general contracting on this particular project. The initial advertisements put out looking for proposal calls were done in what would seem to be a normal way of a government agency, which is to put ads in the paper looking for proposal calls. Advertisements were placed in two newspapers, requesting pre-qualification information from parties interested in providing space. There were 34 responses received. That was September 18, 19 and 20, 1990.

On October 22, 1990, detailed proposals from 13 pre-qualified proponents were requested. That was short-listed down to 3 from 11; there were 13 requested, 11 submitted proposals and 3 were put on a short list.

The thing that concerns me is that some time later, October 16, 1992, there were three general contracting firms in the province of Ontario that were selected and asked to submit bids on the general construction, the general contract of the project. Why was it limited to three, and in your experience, is that a normal number on a project of this size?

**Ms Angove:** The transaction we signed, both as tenant and the investment fund on the investment side, accepts Cadillac Fairview as the developer. In fact, the agreement signed by Cadillac Fairview with CBC, the owner of the land, requires Cadillac Fairview to be the developer. As the developer, they are responsible for selecting the general contractor. The WCB does not interfere with that decision at all. It's entirely up to Cadillac Fairview.

The reason they only asked three contractors to bid is simply because they would only approach contractors who have the experience to build a building of this sort and have proven experience to do it, and also contractors who have proven experience that they will come in on time and on budget. They refused to accept bids from contractors they had dealt with in the past. They

clearly had exceeded both the schedule and the budget, and that's why they went to three.

**Mr Mahoney:** Would they come to this strategic management committee? I forgot exactly what it's called. It's a committee made up of the three partners involved in the project, consultants and engineers etc. The people who made the decision to buy that American floor, would they come to those people and discuss the general contracting proposals?

1650

**Ms Angove:** They discussed the process with the working committee of which WCB is a member, and they explained quite clearly why they were going to follow that process, why they would not accept a bid from a contractor who could not prove that it had built a building of this magnitude on time and on budget.

**Mr Mahoney:** Surely to goodness we know of several contractors other than PCL, Jackson-Lewis and Eastern who would be competent to build a building of this nature.

**Ms Angove:** Mr Mahoney, you must appreciate that the WCB is not in the business of building buildings, so we have to defer to the expertise of the developer and let the developer do his job. Also, there is a performance penalty if this building is not delivered on schedule, and the developer is liable. Clearly they have a very strong interest in ensuring that the contractors who bid can in fact perform and deliver the building.

**Mr Mahoney:** One of the concerns I have, however, is that this is, statements to the contrary, a public building; it'll be occupied 75% by a public government agency. I've been involved in former municipal life with building a public building with public money. We went out to a Canada-wide contest to do it, and went through a very extensive proposal of advertising and making sure that people were aware of what it was we were seeking to build, and I believe we received—Mrs Marland would remember because she and I were on council together—somewhere in excess of 200 submissions for that particular project, and then going through a very open and public process.

I would question whether it is proper for a government agency entering into a joint venture agreement to virtually abdicate its responsibility to the public by turning over the authority for such decisions to a private developer. I wonder if you have any thoughts on that.

**Mr King:** I think this cuts back to the earlier question you had raised, which is, what is the Workers' Compensation Board's accountability, both in law and otherwise, to the legislators and to the public of Ontario? I can tell you that two of our board members have a good deal of experience in construction. One of them is the head of the Provincial Building and Construction Trades Council in Metro, and the other is out of the Council of Ontario Construction Associations.



They do not find the present arrangement to be any difficulty whatsoever, given their years and years of experience in construction.

I understand the concern you've got from a public accountability point of view. On the other hand, you're directly linking this to being a public building, and I think that gets back to the previous discussion we had as to whether this is arm's length. Clearly, if we have a high performance penalty, if that building has to be ready and we're to hold that developer accountable, they've got to be allowed to choose the general.

**Mr Mahoney:** It seems to me that you want your cake and eat it too, that you want a situation that says that it's arm's length and yet you're an owner. If you were simply a tenant and you contracted with Cadillac Fairview to have them build you a building, I would never ask this question. But you are an owner. You are a one-third, whatever the terms of the joint venture agreement is; you are a 70% tenant. Without you, this deal doesn't fly, by the way. Let's make that very clear. Without a 70% tenant, AAA rating, I assume—at least it used to be; maybe it's not quite any more, but whatever; you're pretty solid. Any developer would be delighted to have you as their partner, and even more delighted to then turn around and find out you were going to rent 70% of the project they're building. The bank would be delighted to accept a 10.5% mortgage on \$100 million, I can tell you, even a couple of years ago, with such a worthy tenant ensuring and guaranteeing that mortgage.

I don't know how you can dodge it. Bob Mackenzie tries this when we ask questions. He says: "They're arm's length. We don't want to deal with them." I don't think you, with all respect, can do that as well here. The WCB has an obligation to be accountable to the public. It is public money that funds it and it is public money that is ultimately building this facility. You've entered into an agreement with a developer.

By the way, this group over here—Mr King, I'll try to be a little non-partisan, but the members opposite would be screaming; you could not imagine. If the Liberals had ever entered into a joint venture agreement with Cadillac Fairview, you would go wild, absolutely wild. You would be having somebody write a bloody book to investigate what had gone on and who was in whose pocket, yet you climb into bed—

*Interjection.*

**The Chair:** Ms Haslam, Mr Mahoney has the floor.

**Mr Mahoney:** —with a private developer and you defend it. It's truly amazing. Anyway, back to the question. Sorry; I just got off on a little bit of a tangent, and I apologize for that.

I say that notwithstanding the politics that from time to time creep into this situation, in all seriousness, how can you push it off as arm's length when you, as vice-

chairman of the board, and Mr Di Santo, as the chair, and the entire board, have cut a deal—I'm not even commenting on what the deal's all about—to go in and be a partner and be a tenant and therefore guarantee all of this stuff? I suggest to you allowing Cadillac Fairview to make the deal to limit it to three companies to bid on this thing was improper.

**Mr King:** Workers' compensation boards are usually considered to be somewhat of a hybrid. We rest halfway between line departments of government and private corporations. That power doesn't flow because I like it, but it flows from the law that governs workers' compensation boards. You, as legislators, have given us the authority to tax, in our case, \$2.5 billion a year. You have given us the authority, although you may not like it, to spend \$3 billion a year—

**Mr Mahoney:** Did we give you carte blanche, though? I mean, there's a difference.

**Mr King:** No, but I'm trying to put a perspective around this that the board has been given enormous powers of taxation and expenditure, and that gives it a hybrid position somewhere between a line department, which usually is directly accountable to a minister for that type of taxation, versus the private corporation. I think the board tries to exercise itself as much as it can along private sector lines when it comes to commercial and when it comes to the treatment of its employees.

The Workers' Compensation Board, in my view, expects more accountability out of its employees than the corresponding group in government does because it's closer to the private sector. I think that's the ultimate statement, that the decisions made surrounding Simcoe Place were made more in the hybrid character of a private corporation.

**Mr Mahoney:** I understand that you're going ahead with the building, and I think spending a whole lot more time on it is probably self-defeating. I don't like the way the decision was arrived at. I think there are a lot of improprieties in this. I hope, if anything, as a government agencies committee we can see fit to correct those kinds of things in the future, whichever government happens to be in at the time. There are a lot of very legitimate questions that have been raised, in my view, by opposition members.

The comment was made some time ago that you get hauled in here every six months and you don't have time to do your work, and isn't that a shame. It reminds me a little bit of what we do with education. Certainly with every change of government, if not two or three times during the term of a government, we convene select committees or special committees, and now a royal commission at a cost of three million bucks. We had to give Gerry a job, I guess.

I see four areas as options for coming up with some ideas on reform. I'm running out of time so I want to be

quick. A royal commission is one; a value-for-money audit by the Provincial Auditor is two; a select committee, hopefully non-partisan, if that's possible, would be three; and fourth, the one that I tend to lean towards, is what I would call a forensic audit: private forensic auditors who would be retained by the government from three, four, five or whatever firms to come in and, totally unencumbered, be given complete authority to meet with your financial people and go through the board process and meet with MPPs and do all of that kind of thing, to come up with a report.

Let me just briefly say, the royal commission I think is too expensive, would take too long, and it bothers me; as to the value-for-money audit, the government's already shown it's not willing to listen to the Provincial Auditor in the value-for-money audit it had done on the building; the select committee, I'm afraid, would bog down in partisan issues too often, although I've found that select committees worked reasonably well on education and energy, but there's that problem. So this forensic audit idea: I just wonder if you've thought of that or if you think that idea might work.

**Mr King:** A forensic audit usually refers to a firm coming in and looking for wrongdoing or malfeasance, so maybe we have a different definition of a forensic audit. At least, when I've looked for advice on how to set up a fraud strategy I went to forensic auditors. Some of the boards in Canada have brought in management consulting firms to try to help them come to terms with managing this program.

Ultimately, I have to indicate to you that this is a political problem, not a management problem. The future direction of the board will come from the legislators. We can only manage the law we're given to manage as best we can do it. The direction comes through the law and it comes through the critics we have and the stakeholders we try to serve. So my own advice, for what it's worth, is that you would be better off, if you want to come up with something, to consider this to be more of a political question than some sort of pawning it off to an auditor looking for the magic bullet.

**Mr Mahoney:** Madam Chair, I know I'm out of time, but I just say very briefly, particularly since I won't be here tomorrow, that I think I asked some reasonably tough questions this week and I appreciate the attempts to answer them. I don't agree with everything, but I think there was an honest attempt to face the music, so to speak.

**The Chair:** And your father would be proud of you.

**Mr Mahoney:** He probably would, but who knows? He never was.

**The Chair:** Thank you, members of the committee. Tomorrow morning, if you are delayed for some unforeseen reason, we will start the tour at 9:30 but we will leave a trail for you to catch up to us along the way. We'll look forward to seeing you at the Yonge Street entrance.

The committee adjourned at 1703.



## CONTENTS

Wednesday 15 September 1993

<b>Workers' Compensation Board</b> .....	A-197
Odoardo Di Santo, chair	
Brian King, vice-chair, administration	
Glenn Cooper, chief financial officer	
Linda Angove, project director, long-term facilities strategy and board secretary	
Linda Jolley, senior vice-president, strategic policy and analysis	

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Président:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- Curling, Alvin (Scarborough North/-Nord L)
- Frankford, Robert (Scarborough East/-Est ND)
- Harrington, Margaret H. (Niagara Falls ND)
- Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

#### **Substitutions present/ Membres remplaçants présents:**

Cooper, Mike (Kitchener-Wilmot ND) for Mr Frankford  
Haslam, Karen (Perth ND) for Ms Harrington  
Hope, Randy R. (Chatham-Kent ND) for Mr Marchese  
Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Curling  
Murdock, Sharon (Sudbury ND) for Mr Mammoliti

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service



**Legislative Assembly  
of Ontario**

Third Intersession, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième intersession, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

**Thursday 16 September 1993**

**Journal  
des débats  
(Hansard)**

**Jeudi 16 septembre 1993**

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

**Workers' Compensation Board**

**Commission des accidents  
du travail**

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Thursday 16 September 1993

The committee met at 1340 in the Huron Room, Macdonald Block, Toronto.

## WORKERS' COMPENSATION BOARD

**The Chair (Mrs Margaret Marland):** We're meeting this afternoon following our three-hour tour of the Workers' Compensation Board offices at 2 Bloor Street East this morning. The purpose of having the tour this morning was so that we could ask questions this afternoon. As committee members will recall, we reversed the order, on the very wise suggestion of Mr McLean.

In my rotation—well documented, I may add, for the purposes of the committee members—we would start with Mr McLean. Mr Mahoney finished yesterday.

**Ms Sharon Murdock (Sudbury):** You didn't have to go through that preamble. We trust you, Margaret, at least on that kind of stuff.

**Mr Allan K. McLean (Simcoe East):** Mr Di Santo, I've had a question forwarded to me by Mr Runciman from Leeds-Grenville, and I want to read it so you'll have an opportunity. It's in regard to the scheduled workers' compensation assessment rate increases recently levelled at Ontario's homes for the aged.

"Workers' Compensation Board rates for this sector are to increase from \$2.15 to \$6.04 per \$100 of payroll in 1994. For St Lawrence Lodge, a home for the aged located in the riding of Leeds-Grenville, the impact will mean that WCB contributions for the lodge will exceed \$200,000, with no additional offsetting funding. This represents 3% of the lodge's operational budget or the equivalent of the salaries and benefits of five full-time workers. Ironically, the same day that officials at St Lawrence Lodge learned of the rate increase, the facility received an award from the Care-Givers of Ontario Safety and Health Association for achievement in accident prevention. The lodge is considered to be in the top 10% of Ontario hospitals, nursing homes, homes for the aged, for the least amount of lost-time injuries.

"Could you explain how the scheduled Workers' Compensation Board rate increases were determined for the homes for the aged sector, and do you actually reflect the past injury record of individual facilities such as the St Lawrence Lodge?"

**Mr Odoardo Di Santo:** I am at a disadvantage because I don't know the specifics of the case raised by the honourable member, so I have to ask you to give me that case and I will look into it. Your question was whether the rate reflects the performance?

**Mr McLean:** They've had a Care-Givers of Ontario Safety and Health Association achievement award.

**Mr Di Santo:** What the board of directors has done in the last two years is develop a new revenue strategy. We had 109 rate groups in Ontario, and employers were in those 109 groups. Of course, there wasn't a homogeneous match, because there were in the same group employers with a different level of risk but they were nevertheless paying the same rate. The board undertook a very large review of the revenue system and in 1991 approved a new system by broadening the number of the rate groups from 109 to 219.

The next question that was asked was that many employers would be moved from one group into another; for some of them there would be a sharp increase in their rates because the new group where they went was paying more, or some would experience a rather sharp decline.

**Mr McLean:** I understand that. I guess the bottom line of the question is, are the rates going to increase from \$2.15 to \$6.04 as of 1994?

**Mr Di Santo:** I have to look into that, because the budget we approved last year was basically that we would increase by 3% or decrease by 3%, no more than that. I have to look at this particular case.

**Mr McLean:** I find this rather difficult, because as we're aware, the last budget increased homes for the aged for seniors by some \$372 a month, and here we are now having a substantial increase on the WCB for the homes. That's going to be reflected back on to the residents of those facilities.

**Mr Di Santo:** As I said, there must be some particular circumstances that I don't know. We are consulting on the 1994 rates and, as I said yesterday, we do not foresee any increase next year.

**Mr McLean:** But the directors have to make their recommendations by the 30th of this month, is that right? "The Workers' Compensation Board is scheduled to submit a formal recommendation to their board of directors by September 30, 1993."

**Mr Di Santo:** October.

**Mr McLean:** Oh, it's October. This letter indicates September. So you're saying there could be a change in that figure of \$6.04.

**Mr Di Santo:** Are you talking about 1993 or 1994?

**Mr McLean:** In 1994.

**Mr Di Santo:** That has not been decided yet. Sorry, I misunderstood; I thought you were talking about 1993. No, 1994 has not been decided yet. We are consulting.

**Mr McLean:** "The Workers' Compensation Board rates for our sector are scheduled to increase from the



current \$2.15 per \$100 of payroll to a 1994 target of \$6.04."

**Mr Di Santo:** That's the target for that group. The board has decided that we will not go to the target immediately; last year, we decided that we would go gradually to the target. I don't know what the board of directors is going to decide.

**Mr McLean:** The indication is that there's going to be a substantial increase, in any case; that's for sure.

**Mr Di Santo:** That's very premature to say. There won't be a substantial increase; there will not.

**Mr McLean:** From \$2.15 to \$6.04; that's 181%.

Anyhow, I want to ask you some questions with regard to the tour we had this morning. You're quite familiar with it. On the 8th floor and the 12th floor, which we looked at, can somebody give me an indication of the staff turnover on those two floors?

**Mr Di Santo:** Sam will tell you that.

**Mr Sam Van Clieaf:** I'm Sam Van Clieaf, vice-president, client services. The staff turnover on the 8th floor and the integrated service unit on the 12th floor would probably be in the range of about 15% per year. Of that 15%, this year we would be running at about 4% or 5% where the employees actually left the Workers' Compensation Board for retirement or whatever reason, and the other 10% or 11% would be employees moving to another floor by way of promotion, transfer, that sort of internal staff movement.

**Mr McLean:** Could you give me an indication of the range of salary for those two floors? Would it be \$30,000 to \$40,000, or \$20,000 to \$40,000, or \$20,000 to \$30,000? Just a range: I don't want to know what the salary is, but it would be interesting to know what the range is that those people would be making.

**Mr Van Clieaf:** The range for adjudicators would be approximately \$28,000 to \$30,000 for a first-year adjudicator, and that would go up to about \$55,000 for a senior adjudicator. There would be a comparable salary range for the various levels of vocational rehabilitation positions in the integrated service unit. In the management positions, the technical advisors and the managers, their salary range would be in the \$55,000 to \$65,000 range. The directors would be in the \$70,000 to \$80,000 range.

1350

**Mr James J. Bradley (St Catharines):** I'm in the wrong business.

**Mr McLean:** There was a little meeting we had this morning in that small room. To make some recommendations, I would suggest that the constituency staff perhaps have a tour such as we had, some dealing with them on a little-more-often basis, because they are our front-line workers and they're dealing with these people every day. I have a feeling that our constituency staff is just not up to speed on handling some of these cases,

which would make it a lot better for our clients and make it a lot easier on our staff. I know we had some meetings here in this building last year, but seeing what I saw today and viewing what we viewed, I think it would be a real plus. I would suggest you could maybe do it in regions, too. They wouldn't all have to come to the headquarters, but I think there should be a little more communication.

**Mr Di Santo:** Allan, you remember that the attendance was quite overwhelming. We have in fact concentrated on training the constituency assistants, because we thought that would help both the members and us. But that's an excellent idea that we will consider.

**Mr McLean:** The other question I have is that yesterday you indicated that the property the new building's going to be built on is owned by the CBC.

**Ms Linda Angove:** That's correct.

**Mr McLean:** Are you getting a lease on that? Is it going to be a 99-year lease or will you own it?

**Ms Angove:** There is a 99-year lease from CBC to the co-owners, of which the investment fund is one of the co-owners.

**Mr McLean:** For how much?

**Ms Angove:** The ground lease is \$5.25 a square foot.

**Mr McLean:** What would that amount to in a year?

**Ms Angove:** I'd have to get back to you on that. I'm sorry, I don't have that number with me.

**Mr McLean:** Why didn't you purchase it?

**Ms Angove:** It wasn't available for purchase.

**Mr McLean:** Just for lease?

**Ms Angove:** Yes. The project had already been leased by the Cadillac Fairview group when it developed the Simcoe Place project. When we tendered for projects, for design-build or existing buildings, that came in as a project that was already on leased property. But you must remember that it's a 99-year lease and our investment is in the building. Our return on investment is based on the building, not the land.

**Mr McLean:** So you're going to own 75% of the building.

**Ms Angove:** The investment fund will, yes.

**Mr McLean:** And who's owning the other 25%?

**Ms Angove:** The Toronto-Dominion Bank and the Cadillac Fairview Corp.

**Mr McLean:** The other question I have—I've forgotten it. I will probably think of it again very shortly; it's slipped my mind. I know it was a very important question that had to do with the building; I know it did.

Anyhow, I think that's good for my round.

**Mrs Karen Haslam (Perth):** In the report of the Chairman's Task Force on Service Delivery and Voca-

tional Rehabilitation, under B for principles, page 11, it says:

"Partnership and Accessibility.

"To ensure the success of its programs, the WCB must develop a solid, effective partnership with the stakeholder community: injured workers, employers, medical rehabilitation professionals and the board's front-line staff.

"The board must encourage and reflect stakeholder input in the development of policy."

I've been in contact with some of your stakeholders. I understand there are some questions that come out of the labour movement, and I'm interested in some of the answers. In particular, I have some information which I'd like to read and then maybe ask some questions.

"The non-economic loss provisions of Bill 162 would, if applied fairly, restore some of what was taken away by the abolition of permanent pensions. The board commissioned the largest, most scientific study of non-economic loss to test the American Medical Association's guides to impairment percentages against community perceptions of the seriousness of impairments. Over 10,000 people were surveyed.

"People surveyed did not agree at all with the AMA's percentages, especially in the area of minor to moderate disabilities. What was rated as 1% in the AMA guides was rated at 16% by the respondents. The board ignored its own survey and implemented the AMA guides anyhow."

Was this looked at seriously? It's my understanding that the workers' movement recognized some of the anomalies in the study data and suggested a compromise between the 1% and the 16%; that would have been a rating of 5%, which would have merged with the AMA schedule at about 55%. I'm asking, was this looked at seriously, and what were the criteria that made the 1% accepted over the other study? That's my first question.

**Mr Di Santo:** I'll let Linda Jolley, who is an expert and vice-president for policy, respond.

**Ms Linda Jolley:** Linda Jolley, vice-president of strategic policy and analysis. You're absolutely correct that we did a world-breaking study in terms of people's perception of what disability was. This information was provided to our board of directors, and it had asked us, especially from the employer point of view, to take it forward for peer review. They were concerned about some of the methodology that was taken; they were concerned about some of the findings etc.

I think there must have been three or four board meetings where this whole area was discussed, and it was finally decided that they would adopt right now the AMA guides but that they would reconsider this in the future. It was an issue also that I understand was put on the agenda by labour at the Premier's Labour-Management Advisory Committee, but I don't know where

those discussions have gone.

**Mrs Haslam:** When you say you're going to look at it in the future, were there any time lines involved in that, or were you going to evaluate what you'd already put in place? What time lines were you looking at?

**Ms Jolley:** We're going to evaluate what we put in place. We had also been asked, as I said, to have the study peer reviewed and reviewed for methodology and accuracy etc. In fact, the 1993 AMA guides have been replaced now, so a discussion will have to take place at the board sometime in the next six months, I would suggest, about where we should go from here.

**Mrs Haslam:** My next question is around pensions. Those who suffer the most in the system are many of the workers who were injured previous to Bill 162 and received a pension for their disability. There are approximately 127,000 working-age pensioners, and it is estimated that 50,000 of them are unemployed. The bulk of these injured workers have pension percentages in the 10% to 30% range. If they were injured today, they would be entitled to reinstatement or rehabilitation.

My first question is, if they're on a 10% to 30% range of pension, can they not get into rehabilitation? Is there no program that allows them to examine reinstatement? Failing that, have you looked at increasing the pensions to these injured workers who were on pension pre-Bill 162?

**Mr Di Santo:** I think we are all familiar with the situation you are raising. In fact, there are also other negative aspects that impact on those older workers. For instance, at the time they were injured there was no possibility, as there is not today, for them to contribute towards Canada pension, so that's another negative aspect. If one of those workers was injured at age 45, when he reached age 65, his Canada pension would be much smaller because he has not been contributing from age 45 to age 65. Those workers are basically at the border of poverty because they've not been able to be re-employed because there were no provisions in law at that time. They cannot be reinstated now because reinstatement applies only to workers who were injured after January 1, 1990.

1400

**Mrs Haslam:** Is there any rehabilitative program looking at people who are already on pensions that they could take advantage of to be retrained to get back into employment?

**Mr Di Santo:** In terms of those 170,000 pensioners you spoke about, we have made several attempts. Especially the younger older-injury workers are those who come to us for rehabilitation, and we have tried, with not great success, for many reasons.

In many cases, as you know, you have injured workers who are immigrants who had a specific skill and worked in the construction industry. For them it



becomes very difficult after many years of being unemployed to be retrained in another job, because in many cases there is not even the language skill.

I want to put the most extreme case: If we had legislation today that allowed or forced or provided for employment of people with disabilities of that kind, I think a large number of workers who were injured before 1990 could not be re-employed. The other avenue which is open to relieve those injured workers from their economic situation that, as I said, borders in many cases on poverty, and many of them are on welfare—I think the only remedy is to try to reintegrate their package compensation.

**Mrs Haslam:** Are you saying that many of them cannot be retrained for work?

**Mr Di Santo:** Exactly.

**Mrs Haslam:** That's what you said. You said in terms of these people who collect a disability pension and then go to welfare and say, "This is all I've got and it's all I have to live on"—I understand if you're saying, "We cannot retrain them; we don't have the facilities and we don't have anything to get them into rehabilitation," but what about Jobs Ontario Training, what about some sort of educational training? Are they so situated, at a 10% to 30% pension, that they cannot be retrained for other jobs?

**Mr Di Santo:** They cannot be retrained basically for two reasons: first, the objective reason, because the present situation doesn't allow us to retrain them; and secondly, for the subjective reason, because the further away you are from the accident, the more difficult it becomes to be reintroduced into the work pattern. In fact the board has adopted an early rehabilitation program because it is proved that if the worker is taken immediately after the accident and is brought to think about being retrained and being brought back to work, the rate of success is much higher. That's proved.

**Mrs Haslam:** I really find that very difficult. Let's take a look at society today, where we're talking about integrating disabled people. If we followed that thinking, then we would say, "You cannot integrate disabled people into the workforce because they've never been in a workforce and therefore they're not trainable in that workforce."

You say that a person on a disability pension, 10% to 30%, for loss of an arm, loss of a leg, is on that pension and a course is not available for them to be retrained because they've been out of work and away from the workforce too long. That would say to me that the permanently disabled person who was born with a disability could never be retrained to go into the workforce, and that is contrary to what you yourself were saying here earlier, that in the Workers' Compensation Board you were eager to bring injured workers into your workforce. I think those two things are

opposite, and I'd like a clarification on that.

**Mr Di Santo:** No, I'm not contradicting myself. What I'm saying is that we have an objective situation where it has been very difficult; in fact, the rate of unemployment in this area is 39% among those 170,000, one of the highest rates of unemployment in the country. The major reason is that when those injured workers had an accident any time before 1990, the employer didn't have an obligation under Bill 162 to re-employ them. The board tried a number of avenues and eventually, in many cases, came to the conclusion that it was impossible to re-employ because there were not many avenues.

You are asking in absolute, theoretically, whether those workers could be re-employed. Well, I don't know; I cannot answer you. What I can tell you is that the experience we have in the system of rehabilitation is that the sooner you take the worker, the more success you have. The farther away you are from the job situation and the retraining pattern, the more difficult it becomes. But of course you can never speak in absolutes.

**Mrs Haslam:** Then let's go to the other side of that particular argument. I personally don't feel we should count them out and just increase the pension, but has the board ever considered indexing the pension or taking a look at the situation where they are only on a 10% to 30% disability pension? You've counted them out as being retrained and rehabilitated; they're on social assistance. This is a no-win situation for these people.

**Mr Di Santo:** Before I answer this question, I'd like to ask Sam to tell you the numbers. How many of those workers have come to us and, if you remember offhand, what is the rate of employment?

**Mr Van Clieaf:** I believe the group of injured workers you're referring to was also considered when the transition provisions of Bill 162 were introduced back in July 1989. At that time there were two subsections of the statute that were primarily designed to address that problem. It allowed for any unemployed worker who was receiving a disability pension from the board to apply to the board either for further vocational rehabilitation assistance or for a statutory amount which was equivalent to old age security. What has happened is that as these applications came into the board, each case was considered for one or the other of the provisions.

**Mrs Haslam:** What percentage uptake was there?

**Mr Van Clieaf:** In the initial startup with the applications that came in in 1989, I do not know the exact numbers, but I can give you a pretty fair estimate of totals since then.

**Mrs Haslam:** I'll take it.

**Mr Van Clieaf:** About 20,000 of these injured



workers were reconsidered for vocational rehabilitation assistance on the understanding that there was a reasonable expectation that you could restore through a vocational rehab program the earnings capacity these workers had at the time of their injury. In fairness, as Mr Di Santo was saying, we have not had excellent success in actually restoring the earnings capacity of that group of workers; perhaps 15% to 20% of them were actually successful through voc rehab in returning to employment.

The other side was a much larger number of injured workers, probably in the 40,000 range, who have qualified to receive the equivalent of old age assistance. In fact, many of the 20,000, who, through best efforts by our vocational rehab people and the injured workers themselves, while the program wasn't successful, went from a full supplement and 100% benefits while with the voc rehab program, have since reverted to receive their 30% or 40% pension plus the equivalent of old age assistance. That is payable to age 65, when they would normally qualify for that benefit under the other social nets.

1410

**Mr Di Santo:** I want to say just briefly that from a rehabilitation point of view, we can do as much as we can do under the present circumstances. If we have a new legislation framework—for instance, with employment equity, I don't know at this point how it will develop and will allow latitude for employing people with disabilities, including injured workers. Of course, there will be not only an incentive but also injured workers will seize on that opportunity.

But the real problem we have here is that despite subsection 147(4) that gives the old-age supplement to a number of those workers, and despite our efforts, the real situation is that you have a very large pool of workers who are living below the poverty line. That is a problem we cannot solve at the board. It requires a legislative change in the act. That's why I hope that the government, the legislators, will address that issue, because we cannot—

**Mrs Haslam:** Address the issue of employment equity? Is that what you're talking about?

**Mr Di Santo:** No, looking at the incomes of the older workers and the level of pensions, because right now we are stuck with a schedule we have to implement, and unless there is a legislative change we cannot do much on the level of pensions.

**Mrs Haslam:** Can I ask you a question? If a person is on a 30% disability pension and, through the changing culture we are living in, they are able to obtain a position with a company, what happens to their pension from WCB?

**Mr Di Santo:** They keep their pension.

**Mrs Haslam:** They keep getting it, so there is no

disincentive; they won't lose that if they are able to get employment. I don't see it as a disincentive, but they will remain receiving that pension.

**Mr Di Santo:** Until 1990, we had one pension that compensated for both loss of income and pain and suffering, so to say. With Bill 162, we have a dual system. We compensate for wage loss and NEL compensates for non-economic loss.

**Mrs Haslam:** I want to go into my next question, being CPP offset. Some injured workers qualify for Canada pension plan disability pensions as well as benefits under the Workers' Compensation Act. The pre-Bill 162 legislation allowed injured workers who qualified to collect CPP disability benefits. Bill 162 gave the WCB the discretion to consider the amount an injured worker was receiving in CPP disability benefits when determining their future economic loss award. Under the previous administration, the board of directors decided to subtract the full amount of an injured worker's CPP benefits from their FEL award.

That's discouraged injured workers from applying for CPP benefits and added cost to the system. An injured worker should be entitled to at least 50% of their CPP benefits because that's what they contribute to the premiums in the first place. Can that be done? Have you looked at that and would it actually save money for the board?

**Mr Di Santo:** The board of directors has addressed this question on a number of occasions and has not come to a conclusion yet because there are some difficulties with the interpretation of the act. We asked for legal opinions and we had legal opinions that, quite frankly, came on both sides: "to consider" for some counsels meant to deduct; for others it meant only to give consideration and then decide according to a number of circumstances.

Until now, the board of directors has been unable to reach a consensus because—I want to be very frank with the committee—this is an issue that involves also large amounts of money, and of course it depends from what point of view you look at it. If you follow your reasoning, the board would save money. The other school of thought says that if we deduct and people still do not apply for Canada pension, then the board will lose money.

Basically, it is an issue that will be dealt with sooner or later, and I hope there is also some consensus between the employers and workers, not only at the board level but also at the Premier's council level.

**Mr Bradley:** I will begin. Mr Curling, I know, is anxious to ask some questions as a result of his tour of the facility, which was very intriguing to him, but I want to deal with a couple of issues. Ms Haslam has dealt, actually, with some of the issues I think we were going to explore.



I'd like to go back to the obligation of the employer nowadays, as of September 1993, where we are. The actual obligation of an employer to take back injured workers at a time when the company is downsizing: How strong is that obligation and how long does the employer have; or how long does the employee stay in limbo before the employee is, let us say, written off by the employer?

**Mr Di Santo:** That's for workers who are injured after January 1, 1990?

**Mr Bradley:** Exactly.

**Mr Van Clieaf:** There are reinstatement provisions within the statute, and the reinstatement provisions take a number of forms.

The employer has an obligation to take back a worker if the worker is able to do the essential duties of that worker's job. Those obligations are time-related and the worker must be taken back within a six-month period or the worker can apply to the board to hear his or her case in front of a hearing. The employer can receive a substantial fine and the worker can receive the equivalent of temporary compensation payments if the employer has breached its obligations.

The other parts of the provisions on the reinstatement provisions deal with the worker's right to an accommodated work site where, depending upon the nature of the injury, the employer is obligated to look at the worker's job site and, unless financial hardship would be imposed on the employer, they are required to take whatever steps are reasonable to make the changes, whether they be ergonomic or otherwise, to allow the worker to return. In those cases, the worker has the right to apply to the board where the worker does not feel that the employer has fulfilled the obligation. Again, it could proceed to a hearing to hear the case and there are penalties provided for in the statute to deal with the issue. In each case, though, they are time-related.

**Mr Bradley:** What happens if the employer deletes the position by, for instance, having a robot do the job? We used to smile at that years ago, but it does happen today. Today, it is a possibility that the robot can do the same job a person was doing. What happens in that event?

**Mr Van Clieaf:** I do not believe, under the provisions of the statute, that the employer can eliminate their obligation on that basis.

**Mr Bradley:** So they would have to give them another job other than the job—

**Mr Van Clieaf:** Yes, another job.

**Mr Bradley:** What if the company is "downsizing," as they like using? That's always a nice word. It doesn't sound so harsh when you say downsizing. But what happens if they are going from a company of 70 to a company of 50? How does the injured worker fit in then?

**Mr Van Clieaf:** Going from 70 to 50 does not eliminate their obligation under the reinstatement provisions. They must take the worker back or accommodate him.

**Mr Bradley:** What role does seniority play in this? In other words, if the worker has worked for 25 years for the company or 5 years, what if the company says, "When we're going from a workforce of 70 to 50, the people at the bottom end of the rung," in other words, the newest employees, "will go first, because we have a contract that deals with seniority"? How does that affect the person?

1420

**Mr Van Clieaf:** The worker's right under the Workers' Compensation Act would not deal with the seniority issue.

**Mr Bradley:** We talked a little bit about stress. I'm interested in psychiatric cases and how you deal with psychiatric cases who are no longer able to work. Any of us who have been members of the Legislature for any period of time have encountered individuals who believe that you have either planted a bomb inside them or have put a device inside their brain that's making them do things. It's very sad, because you're not going to convince the people differently. They say the WCB doctor did this or something of that nature. We know it doesn't happen, but those people are in that position and may not be able to be re-employed for psychiatric reasons. I had one fellow who gave me the diagram of his stomach, how you people in the WCB had planted the bomb in his stomach and you had a device that could have it exploded at any particular time. He was threatening to kill everybody. I was about sixth on the list, so I wasn't overly worried at the time.

But it is a matter of great concern when you have these psychiatric cases, because were I an employer, I would be saying, "Gosh, that's perhaps a dangerous person to employ and I don't know what the chances are of recovery." How does WCB kick in in that case, where it becomes a psychiatric disability as opposed to a physical disability?

**Mr Van Clieaf:** Are we talking here as it relates to reinstatement provisions?

**Mr Bradley:** Yes, reinstatement; that's what I'm thinking of primarily.

**Mr Van Clieaf:** In the example you've cited, if that was the worker's diagnosed condition, I don't think anyone could conclude that the worker was capable of doing the essential functions of the job, and therefore the reinstatement provisions would not apply in that sense.

**Mr Bradley:** What about the compensation provisions? The person may be physically fine to go back to work, in terms of being able to physically perform a task, but if the person has some significant psychiatric



problems, that person could be quite disruptive to the workplace. It's a disability, but the disability is based on a psychiatric, as opposed to a physical, problem. How do you deal with that?

**Mr Van Clieaf:** The board will recognize a psychiatric component to a worker's compensable condition so long as there is a relationship back to the accident. It could be as a result of prolonged treatment or pain that such a condition develops, but so long as there is a link back to the injury that resulted in the claim in the first instance, those types of conditions are accepted and they are recognized.

Pensions will pay for not only treatment, if that's required for a period of temporary disability; we will also recognize that component of a worker's condition by way of a pension if it was a pre-January 1, 1990, case, and we will also recognize it as part of the reality in determining a future economic loss for a post-January 1, 1990, claim.

**Mr Bradley:** Would there have to be proof that the psychiatric condition was caused by the injury? It could be that the individual's son or daughter is driving him or her around the bend and that may have contributed significantly to the psychiatric problem. So it would have to be related?

**Mr Van Clieaf:** There must be a relationship between the psychiatric condition and the injury or the accident for which we've accepted entitlement.

**Mr Bradley:** I have a couple of questions about new rulings and how they might apply to you, and new legislation: first of all, the ruling that either a court or the Human Rights Commission has come out with recently—I think it's a court ruling—which says there must be accessibility. I don't imagine it affects you all that much, because you try for accessibility, but does that mean now that every WCB office has to comply with that? What is that going to mean in terms of capital improvements on your part, if anything?

**Mr Di Santo:** In our offices?

**Mr Bradley:** Yes. Are all your offices accessible now? They would meet that obligation now?

**Mr Van Clieaf:** We have accessibility guidelines that were approved a few years ago, and part of those accessibility guidelines and board policy states that if we currently have an office that does not meet those accessibility guidelines, the board will look to an alternative premise once the current lease comes due.

**Mr Bradley:** It's a little more difficult to deal with the other part of that. My guess is that probably enhances the re-employability of some of the individuals you try to help out, because it means that for reasons other than this, we have a situation where they're going to have to accommodate them in the workplace in any event. I suppose that helps your position a bit.

**Mr Van Clieaf:** It's certainly not going to hurt.

**Mr Bradley:** The other one I have is employment equity. How does employment equity affect somebody coming back to work? In other words, here you've got all these things, all these obligations on employers. What happens when the two clash? You're trying to achieve employment equity and you're trying to get the injured worker back in the place. Who wins? Who takes precedence?

**Mr Van Clieaf:** I would think that employment equity does cover people with disabilities. I don't think the two programs are necessarily in conflict, that they do work together.

**Mr Bradley:** So you have no concerns about the legislation, one way or the other, that the government has in place. It doesn't affect you.

**Mr Van Clieaf:** I don't believe so, no.

**Mr Bradley:** I'm going to pass to my colleague from north Scarborough in a minute here; yes, my colleague has some questions about the building.

**Mr Alvin Curling (Scarborough North):** It's Scarborough North. As my distinguished colleague has passed to me and woken me up about employment equity, you said you had been following the procedures, I presume, and seen the impact that employment equity may have on workers' compensation itself. You're saying that you don't see anything that would be in conflict at all or you're able to—let me just put it this way. He had asked if all your buildings are accessible and you said they mostly are accessible. You said that if there's a building that is not accessible, when the lease runs out then you would comply.

**Mr Van Clieaf:** We would then look for quarters that did comply with our accessibility guidelines, which we also believe are in keeping with the other provisions.

**Mr Curling:** This may run in contrast to the objective of employment equity; in other words, if you set out an employment equity plan to say that this is what you would do and the employment equity plan asks that in three years you comply but your lease is beyond three years, the fact is that you may be in conflict with the employment equity legislation. I don't want to put you on the spot—

**Mr Van Clieaf:** Then we would have to comply with the law.

**Mr Curling:** Yes. What is happening here, I have found, is that the government sometimes requests more of the private sector than it's requesting of itself.

**Mr Di Santo:** I would like to reply to the member for Scarborough North, right, not north Scarborough?

**Mr Curling:** Scarborough North, you got it right.

**Mr Di Santo:** Mr Curling. Of course we will comply with the legislation. Not only that, but we have made, as we said yesterday—you were not here—one of our priorities to encourage employment equity within



the board. In fact, we are encouraging not only injured workers but minorities in the other groups who are affected to have access to employment within the board. I can think now of only two of our offices: one doesn't comply completely with the access guidelines, and of course 2 Bloor Street East. Nobody should draw the conclusion that as, for instance, in Sudbury the office is not totally accessible, we will not comply with the employment equity legislation. If the legislation is passed, we will comply with it.

1430

**Mr Curling:** I see quite a lot of difficulty. I want to go on to another matter. I don't know how much time we have, since the Chair is not paying attention.

My colleague talked to you about seniority. Seniority is one of the biggest challenges the committee is facing, how to deal with seniority and call-back. He had put a scenario where the individual may be able, then get disabled and be laid off, and then he could be called back on seniority, because he or she is part of that seniority list and would be called back on seniority. You have been following the employment equity situation. Did you see, at any time when that has been discussed, that seniority may be a conflict in the principle of how you bring back your worker or promote that individual?

**Mr Di Santo:** I'm sorry?

**Mr Curling:** I'll ask it again. Seniority could be, and I think it is, in conflict with the principle of employment equity. When someone is laid off, for whatever purpose—let's say in a case you'll be dealing with, a situation where someone has been injured, and when they're called back, they're called back according to their seniority. I'm asking you, following the employment equity legislation as it developed, do you see that in any way in conflict with the principles of employment equity?

**Mr Di Santo:** As Mr Van Clieaf said, it's written in the act that was passed in 1989 that when there is a conflict with the collective agreement, if the obligations of the employer under the Workers' Compensation Act enhance the re-employment chance of the worker, this act takes precedence over the collective agreement. This is not meant to operate in order to displace the collective agreement, but this takes precedence over the collective agreement.

**Mr Curling:** I have to say I'm fully confused in the sense that when I read the legislation—to say that takes precedence but again it is not to work against a collective agreement.

**Mr Di Santo:** No, no, no. The Workers' Compensation Act doesn't nullify an existing collective agreement, but if a worker is in these circumstances, is under section 54 of Bill 162, then section 54 takes precedence over the collective agreement.

**Mr Curling:** I don't want to go into that in more detail, because it's unfair of me to pursue employment equity too much with you. I would just like to say to the WCB to follow that act very closely as we develop this act and see where you can comply, because I think you're going to have extreme difficulty in complying if it proceeds in the manner it's going now. It's unfair of me to ask you questions in that regard when of course they will be listening and changing it, and when it is changed, it will be different.

I just want to say to you that accessibility is going to be a chief concern in regard to complying with the regulations. I notice in your new building you're going to have day care. I notice carefully that you said you're not quite sure who is going to fund that while the government is not funding day care, which is also part of employment equity. Again, that is being developed and hopefully more space will come about. I will just back off employment equity.

**Mr Di Santo:** I don't know the employment equity legislation that you are obviously discussing in another forum, but as far as we are concerned; I can reiterate that we are committed to employment equity because that's the policy of the board at this point in time. I think the Workers' Compensation Board should make an effort in employing injured workers, because this is an institution that was created because there were injured workers. I think it should reflect our society, because workers belong to every group in Ontario and therefore we should encourage employment of the other groups that are disadvantaged in our society.

Now, under the present legislation, we can deal with workers who are injured on the job after January 1, 1990, and their right to re-employment. In places where there is a collective agreement, those workers have precedence in re-employment because the Workers' Compensation Act clearly states that the act supersedes only collective agreements, but the act also says we do not intend to deny collective agreements; in other words, collective agreements are their life, but if a worker gets injured, he has precedence because of the Workers' Compensation Act.

**Mr Curling:** This is my last—

**The Chair:** No, no.

**Mr Curling:** Just a little statement then. I think it's appropriate, Madam Chair, just as a statement.

I have no doubt that you are committed to employment equity. I would say to you that the definition of disability and all that should be watched very carefully on what is disabled and what are severe disabilities.

**Mr McLean:** I have a question and I'm curious about the answer. Due to construction being down in Ontario—there are a lot of people out of work—what percentage have your claims been down in the last year?

**Mr Di Santo:** In 1992 we had 377,000 injuries on

the job and in 1991 we had a little bit more than 400,000.

**Mr McLean:** What's your anticipated projection for this year? Fewer still?

**Mr Di Santo:** Projected for this year is 373,000.

**Mr Van Clieaf:** Within 1%.

**Mr Di Santo:** Yes, just a small percentage.

**Mr McLean:** I remember the question I had earlier that slipped my mind: It was the question we had asked in committee this morning about the offices, where they are located. During the discussion this morning, it was noted that while regional offices of the WCB increase the perception of accessibility to services, delivery of services from smaller regional offices is more expensive than from head office due to lower efficiencies of scale. The difference in that cost would be what? And how much does the decentralization cost?

**Mr Van Clieaf:** I don't have an up-to-date answer for you. I know that when we took a look at this issue—I think the most recent time that we looked at it was about 1989—the dollar figure that comes to mind is about \$4.5 million more to deliver the service out of a regional setting than it was at head office when the work was about 50% regional office, 50% at the office in downtown Toronto. What those numbers are today, I do not know.

**Mr McLean:** Give me the locations of the regional offices.

**Mr Van Clieaf:** We have regional offices in Hamilton, London, Windsor, Ottawa, Sudbury and Thunder Bay.

**Mr McLean:** And you have some smaller offices in what locations?

1440

**Mr Van Clieaf:** We have area offices in Sault Ste Marie, North Bay, St Catharines, Kitchener and Kingston.

**Mr McLean:** Is there not one in Barrie?

**Mr Van Clieaf:** Not an area office, no. There might be another one, but it doesn't come to my mind at the moment.

**Interjection:** Timmins.

**Mr Van Clieaf:** Timmins; there it is.

**Mr McLean:** What are the other offices you have? You have three different types of offices. You have the main offices, area offices, and what's the third one?

**Mr Van Clieaf:** The third one would be described as work bases, where we would have field vocational rehabilitation staff. In other words, our employees who live in those areas would work out of office space that was rented in that area. It gives the board a small presence in those communities and primarily provides interviewing space and rooms where we can interview workers, employers or others, set up appointments and

organize our work out of those bases. They are numerous throughout the province.

**Mr McLean:** They would be where the adjudicators would probably work out of, in some cases?

**Mr Van Clieaf:** No. They are primarily where vocational rehabilitation staff would work out of, as opposed to adjudicators. Adjudicators essentially work out of regional offices and Toronto's head office.

**Mr McLean:** So if an adjudicator comes to my area, I would anticipate that individual would come and visit more than one person to review their file.

**Mr Van Clieaf:** That would be a case worker, yes.

**Mr McLean:** That would be a case worker. Do they travel the province regularly?

**Mr Van Clieaf:** Yes.

**Mr McLean:** What about the people from your regional office, or your area office? Do they then request these people to come to see the individuals?

**Mr Van Clieaf:** No, they're essentially performing that function. They could either come from a regional office or head office or they could be working out of one of the work bases; it's a combination of the three. But if you had a case worker stationed in Barrie, say, you usually wouldn't send somebody from Toronto to manage that case. It would be managed by a case worker in Barrie.

**Mr McLean:** In northern Ontario, do you have an office in Sudbury?

**Mr Van Clieaf:** Yes, we do.

**Mr McLean:** An area office?

**Mr Van Clieaf:** No, we have a regional office in Sudbury.

**Mr McLean:** What's in Thunder Bay?

**Mr Van Clieaf:** A regional office.

**Mr McLean:** And in Timmins?

**Mr Van Clieaf:** An area office, much smaller, with far less of a service base than an area office. Timmins, for instance, would not register new claims for the board. Timmins would not adjudicate entitlement. Timmins would not authorize payments or produce cheques for injured workers. Timmins would have, perhaps, vocational rehabilitation, case workers or specialists who have assigned case loads of injured workers in the Timmins area, and those claims would be attached to the Sudbury office. It would be an adjunct to the Sudbury office, where the adjudication is done in Sudbury and the voc rehab is done in Timmins.

**Mr McLean:** What office do you have in Barrie?

**Mr Van Clieaf:** We would have a work base in Barrie.

**Mr McLean:** What would that work base cover?

**Mr Van Clieaf:** That work base would cover vocational rehabilitation activity for the area around the



city of Barrie, and Barrie would be attached to the Toronto North ISU working out of head office here.

**Mr McLean:** Would they take their directions mainly from head office?

**Mr Van Clieaf:** They would take their direction from the director and the managers working out of the ISU in Toronto if they were in Barrie.

**Mr McLean:** Would there be anybody in Barrie who would contact that office for any purpose, or is that strictly like a satellite office from here, where everything goes through here to that area office?

**Mr Van Clieaf:** Basically, that's correct. Everything would go through Toronto to Barrie.

**Mr McLean:** There would be no constituency staff that would phone that office for any reason?

**Mr Van Clieaf:** If the constituency staff knew that a worker was receiving voc rehab assistance and they knew the case worker and they knew the case worker worked out of that Barrie work base, they might well phone if their question was associated with vocational rehabilitation. If it was associated with policy or adjudication, they would usually phone head office. I wouldn't be opposed at all to them phoning the Barrie work base, and they would relay the information to Toronto and get it and go back to the inquirer.

**Mr McLean:** But what you're promoting is, "Phone this office in Toronto and it'll be handled from there."

**Mr Van Clieaf:** Yes.

**Mr McLean:** How many stories is the new building going to be?

**Ms Angove:** I'm Linda Angove, director of the facilities strategy project. It'll be 30 stories, which includes two mechanical floors.

**Mr McLean:** And what corner will the chairman's office be located in?

**Ms Angove:** We haven't determined that yet.

**Mr McLean:** It will be on the top floor?

**Ms Angove:** No, it will not.

**Mr Di Santo:** Do you suggest it should be a pent-house?

**Mr McLean:** They usually have a top corner suite in the southwest corner of buildings, and I thought that would be a beautiful spot.

**Ms Angove:** If I could clarify, Mr McLean, the upper floors will be speculative office tenants, so the WCB will occupy the lower 70% of the building.

**Mr McLean:** Oh, so the tenants are going to get the satisfaction of the view at the top and the opportunity to pay a higher rate of square footage?

**Ms Angove:** That's correct.

**Mr Curling:** If Bob Elgie was here, they would have given him the top floor.

**Mrs Haslam:** That's fiscal responsibility.

**Mr McLean:** What is the square footage of the building?

**Ms Angove:** It's 755,000 square feet, approximately, for the whole tower, of which we will occupy 525,000.

**Mr McLean:** And how much footage do you have rented now?

**Ms Angove:** I should have mentioned this this morning on the tour. We have a number of locations outside of 2 Bloor as well: We have operations at 121 Bloor, at 80 Bloor and at 2 Bloor West, and we have our computer centre at Manulife just down Bloor as well, so we occupy close to 470,000 square feet, not all of which will be relocated. We will not be relocating our mainframe computers. I think Mr King mentioned yesterday that we were, but we will not be; they'll remain in what is a computer centre. The rest of what is located in the Bloor Street area will be relocated.

**Mr McLean:** What hours would those staff people we saw this morning work? How many hours a day?

**Ms Angove:** Seven.

**Mr Van Clieaf:** The normal work day would be 8:30 to 4:30, but if the work schedule allows it, we are reasonably flexible with people. Some of them will work from 8 to 4, some of them from 7:30 to 3:30, some from 7 till 3. It's fundamentally an 8:30 to 4:30 shift.

**Mr McLean:** I happen to believe it would have to be a real tough job to be doing that. What percentage of people, with the stress, just can't hack that any more? I would think it would have to be a high number. That's why I wanted to find out what your turnover rate was. I wouldn't want to do it. It's got to be a tough job.

**Mr Van Clieaf:** We are very interested in improving the morale of our own people by improving the quarters in which they will work.

**Mrs Haslam:** I would like to go into another topic called "experience rating." Experience rating programs were designed to provide a financial incentive to employers who have above-average safety records by lowering their assessment rates compared to other employers in their rate group. Unfortunately, experience rating programs sometimes encourage, as I understand, the hiding of claims, and do little to improve the workplace health and safety. Experience rating prompts employers to appeal workers' claims if the smallest doubt exists. Was the impact of a flat-rate assessment system or a two-tiered high-risk/low-risk rate investigated, and if so, what was the decision of that investigation?

**Ms Jolley:** Presently, we are considering the whole issue of our role in health and safety incentives in our strategic planning with the board of directors. Right now I have to say to you that the board of directors is not considering a flat rate or a two-tiered rate at the present time. It has been discussed from time to time,

but not in a serious discussion.

What we are looking at, both in strategic planning and at the board of directors' meeting in October, is whether or not we should extend experience rating to all of the industries in Ontario or whether we should look at changing the systems of incentives for prevention. There is evidence to indicate that they do reduce the incidence and frequency of injuries, but we have evidence to indicate, as you've said, that it can also be done by other means. There is evidence that it does produce what we would like it to do, but how it's done is not always through health and safety prevention.

1450

**Mrs Haslam:** I'd like to get into extending the coverage a little later, but let's go back to the health and safety. If you developed a single rate, would health and safety enforcement and audits and education be left more to the Workplace Health and Safety Agency in the Ministry of Labour, therefore alleviating some of your work?

**Ms Jolley:** If you had a flat rate, you could either deal with incentives as we do in experience rating, where we would give rebates and penalties based on their experience, or we could look, as Brian King suggested, to other alternatives. You can look at enforcement of the Occupational Health and Safety Act through administrative penalties through the workers' compensation system; that's something the Attorney General is exploring right now with us. You can look at the agency taking over a workplace auditing system through its accreditation, where it could go in and inspect workplaces, and then it could also use experience rating as a part of that as well.

There are a number of options. Our board of directors is looking at that. We are now working with the agency so that we will not be duplicating its efforts when it develops its accreditation system.

**Mrs Haslam:** This was an interesting fact when I read it. Do you know the percentages—I don't know if you would or not—of businesses which really would do that, which would say, "I don't want a WCB claim because it hurts my rates"? How prevalent is that?

**Ms Jolley:** We don't know that for sure. We did a study. As a result of our looking at experience rating in 1990-91, Peat Marwick actually did a study for us where they identified some of these unforeseen behaviours like hiding claims. What we've discovered is that often they don't report non-lost-time claims, so the claims mix is changing. Indeed, I think the resources development committee of the Legislature in 1987 found that in the mining industry, for example, there was some of that happening as a result.

We did a study where we tried to ask employers about this kind of behaviour. As you can imagine, it's very difficult to get at it because in fact the behaviour

is illegal. You are required by law to report accidents. We found that about 20% of employers—and I can give you the exact figures—had other programs they could use, for example, sickness and accident benefits etc.

They indicated that they encouraged people to come to work, to stay at work. There are a lot of good reasons why you want to keep people at work. There may be some negative ones too, but there are good reasons to keep people in touch with their colleagues and workmates and things like that.

We explored that, but we can't get at that, as I say, because it is illegal behaviour and it's very difficult to get people to admit.

**Mrs Haslam:** I guess we all know it happens; it's just hard to put a percentage on it.

**Ms Jolley:** Yes.

**Mrs Haslam:** Right. You were talking about coverage, and I was reading again that approximately 430,000 workers are not protected by WCB. Is that correct? Would that be an accurate reading?

**Ms Jolley:** Approximately one million are not covered.

**Mrs Haslam:** It's that many?

**Ms Jolley:** Yes.

**Mrs Haslam:** Okay, because the information I had was taking a look at the fact that some employers have to pay, some don't. Am I correct in saying that it covers some workers and not others, just whether that industry is covered by WCB?

**Ms Jolley:** Right.

**Mrs Haslam:** Am I correct in thinking that you are looking at adding new sectors to WCB?

**Ms Jolley:** As part of our strategic planning at the board of directors, coverage is one of the issues. The board has agreed that there seem to be aberrations in coverage, but there is no consensus as to whether or not all of industry in Ontario would be brought under. It has also been discussed at the Premier's Labour-Management Advisory Council.

**Mrs Haslam:** When you're talking about industries, one thing I see is that when you're looking at a reduction of your manufacturing base and your resources base but you're looking at an increase of your knowledge-based industries—banks in particular was the one that caught my eye; I just love to read about banks—how can we justify the exclusion of banks and insurance companies from WCB? We're looking at a new kind of injury and a new prevalent kind of injury. Are you looking at including these two sectors? Let's put it that way.

**Mr Di Santo:** The Workers' Compensation Act in Ontario covers only 60% of all the workers. We have come to that situation gradually, because of course when the act was enacted in 1914 the number of workers



covered was very much smaller. The question you're posing is a very serious one, and in fact other provinces in Canada—

**Mrs Haslam:** Excuse me. Madam Chair, I'm talking about workers and I'm talking about benefits for workers. I'm not talking about a building, I'm not talking about concrete items, and I can barely hear Mr Di Santo's answers because of the noise in here.

**The Chair:** All right. Both the government caucus and the Liberal caucus are having side conversations, and the problem this afternoon is that we have a lot of overhead noise from some system in this building which has been elevated; earlier in the week that noise was there but it is worse this afternoon, so we will consider Ms Haslam's ability to hear Mr Di Santo. Thank you for your consideration. Would you like to proceed?

**Mrs Haslam:** Thank you, Madam Chair.

**Mr Di Santo:** I was saying that in the other provinces situations vary, but most of the provinces cover most of the workers. As you know, in BC, where 85% of the workers were covered, now virtually every worker has been covered with the act introduced this year.

In Ontario, as we've said in the last four days, we have a situation where the workplace has changed dramatically since the moment the act was enacted in 1914. At that time, Justice Meredith had to deal only with accidents on the job that affected the body because of a fall, because of machinery that broke the back or part of the body. Today we are dealing with a complex situation where there is a whole area, the occupational diseases, that was totally unknown. It's becoming a very big issue because of the scientific and medical knowledge that is increasing, and therefore we have an obligation to compensate those disabilities.

There is another major factor: that because of that situation, a disequilibrium, an unbalance is developing within the employers presently covered. In the mining industry we are compensating now, for instance, occupational diseases that developed a number of years ago with employers that do not exist any longer. Also, we told you that 75% of our revenues come basically from the three major sectors, but we have a restructuring of our economy and manufacturing is not as important a sector as it used to be a few years ago. But we have an obligation to compensate workers who have been injured or who are developing occupational diseases, because in some cases of asbestosis and other diseases the latency is very long.

1500

So we have to think, is this system adequate to deal with compensation? Of course the answer is, obviously not, and it comes not only from workers but also from the present employers. But this is a question that has to be dealt with by the political world, possibly with the

consensus of the workplace partners.

**Mrs Haslam:** So if the decision was made to include or add additional sectors, it would be a political decision to do that?

**Mr Di Santo:** It's a decision that has to be made by the Legislature, ultimately.

**Mrs Haslam:** Do you not include sectors on your own? Are you not entitled to add various new sectors?

**Mr Di Santo:** No, we can't. The act must be amended.

**Mrs Haslam:** Okay, it was my misunderstanding.

**Mr Di Santo:** Let me add that the act must be amended or it can be by regulations also.

**Mrs Haslam:** Thank you for clarifying that, because I was under the impression that you could do it and it was done by regulations. That's what I understood.

**Mr Di Santo:** But you know who passes the regulations.

**Mrs Haslam:** Yes, I know who passes regulations, but I needed that clarification that it can be done without changing the act.

Section 93 removes WCAT's independence by allowing the WCB board of directors to overrule its decisions. Is that correct, and how often has that been done?

**Mr Di Santo:** We've had a section 93 in very few, a handful of cases.

**Mrs Haslam:** Okay. Since I see that there are no other questions from anyone else—

**Mr Rosario Marchese (Fort York):** I'm on the list.

**Mrs Haslam:** Oh, you are on the list? I thought you wanted me to stop.

**Mrs Marland:** There's only five minutes left. Would you like to give it to Mr Marchese?

**Mrs Haslam:** I would yield to Mr Marchese.

**Mr Marchese:** Thank you, Ms Haslam. I had a question with respect to physicians and the decisions that are made by the board's doctors versus opinions that are given by not just general practitioners but by specialists. They are often in conflict, of course. Ms Jolley or Mr Van Clieaf, I don't know which of the two of you would like to address the issue.

The specialist gives an opinion and says, "Yes, this is related to the accident," and gives an opinion as to why the worker should be covered. It goes to the doctors at the compensation board and, in their opinion, they give a different conclusion. I'm sure this is an ongoing problem that needs to be somehow addressed, because not only does it lead to frustrations from the employee, who says, "All the doctors I see say this is compensable, but you go here and it's denied," and of course they keep on appealing and they're frustrated, but I presume some physicians are frustrated as well.

I've had many experiences where some physicians in the past were very, very angry, where they in fact have gone to the appeal process themselves to defend the injured worker and said, "This person is 100% disabled and should get whatever is deemed to be appropriate," and they leave frustrated because the case is denied in the end. How do you deal with that, either of you?

**Mr Van Clieaf:** I think it's important that we do understand the role of both WCB physicians working for the board and physicians who are treating injured workers as family doctors or consultants brought in to do it. In the decision-making process, physicians, either externals or physicians of the board, do not make the decisions. They are adjudicative decisions. The adjudicators receive the advice of the physicians and then make the ruling. Adjudicators will not usually question a physician, especially the external, when it comes to diagnosis or to a treatment program; they will seek advice.

Where sometimes the conflict will arise occurs in cases where the worker might say, "My doctor says I can't work." That is really not a medical decision; that's an adjudicative decision. What we hope to get from our own physicians and from the external physicians would be, what are the restrictions the worker has, what can or cannot the worker do, and you would then use that to reach your adjudicative decision. I'm not sure if I'm answering what you asked for, though.

**Mr Marchese:** I'm not sure you did either. I was saying that the specialist gives an opinion of the accident and says, "This is compensable," and gives medical reasons as to why that is so and the board's doctors come to a different kind of conclusion. How do we deal with this ongoing medical conflict that exists in their different ways of interpreting things? Is it just a fact of life that we have to deal with? The ultimate say, of course, is with the board, and yes, there are appeals, but ultimately the opinions that seem to be the strongest are the ones given by the doctors at the WCB.

**Mr Van Clieaf:** I don't want to be argumentative, but I would suggest that usually the adjudicator will take a look at the discipline and the specialty of the physician who is making the diagnosis and, normally, if a specialist has reached a diagnosis, they will go with that diagnosis as opposed to the general practitioner or the opinion of the board's internal physician, unless they're of equal rank. Frankly, if there are reasonable grounds for doubt on either side, they would ask a third physician to give you a ruling.

**Mr Marchese:** But on the whole it's the internal physician that the adjudicator goes to for final adjudication. That's what I understand happens at the board.

**Mr Van Clieaf:** One of the things that's been very interesting in the last few years has been the discipline that has been brought to this whole process by the external appeals tribunal, for instance. In days gone by,

an internal board physician might simply look at a request for an opinion on, is there a relationship between the diagnosed condition and, say, the work an individual is doing? You might have seen in days gone by the word "allow" or the word "reject" and the internal board physician signing it. That is not the case any more, especially with this move to the physicians having to give the adjudicators advice. We are looking for explanation and rationale to support that decision, and that's gone a long way to removing some of that medical conflict to which you refer.

**The Chair:** Before we adjourn, I want to place on the record what we will expect to happen next. I had a discussion at noon with Mr Waters, who said it might be the wish of the committee to discuss at the next meeting the Premier's council report, and perhaps its recommendations, if they're available. I said that would be something he might like to discuss with the opposition parties.

In light of the fact that some people are not able to be here this afternoon—one case in particular I know is a funeral—I'm suggesting that perhaps the committee can't give direction to Mr Yeager for the writing of the report because at this point you haven't really completed all those matters which you wish to consider, namely, for example, the one Mr Waters mentioned at noon. Perhaps we could have an understanding, obviously, that when we return to this subject, there will be other matters still for consideration.

**Mr Curling:** Are we going to discuss the Premier's council's report?

**The Chair:** That will be a decision of the committee. We're not in a position to make that decision right now. I'm just stating that it was something Mr Waters mentioned.

**Ms Murdock:** Mrs Witmer mentioned that she has had ongoing conversations with some of the members of the PLMAC and that its report is not due out until October some time, in which it's discussing workers' compensation issues, that is, other than the other things it discusses; there is a specific report on workers' compensation issues. As long as the committee is of the understanding that it probably won't come up until then.

**The Chair:** It's going to be October very quickly.

Anyway, I thank you, Mr Di Santo, and please thank Mr King—he's not able to be here this afternoon—on behalf of the committee, and we certainly appreciate the cooperation and the attendance of all of your staff. I think it's been a productive week, and we appreciate the attendance and cooperation of everyone involved. I thank the members for their help and cooperation also.

**Mr Di Santo:** Thank you. I also must mention that Ms Lynn Mellor has been instrumental in organizing and helped us very much in bringing all of us together.

The committee adjourned at 1512.



## CONTENTS

Thursday 16 September 1993

<b>Workers' Compensation Board</b> .....	A-239
Odoardo Di Santo, chair	
Sam Van Clieaf, senior vice-president, client services	
Linda Angove, project director, long-term facilities strategy and board secretary	
Linda Jolley, senior vice-president, strategic policy and analysis	

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Président:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- Frankford, Robert (Scarborough East/-Est ND)
- Harrington, Margaret H. (Niagara Falls ND)
- Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

#### **Substitutions present/ Membres remplaçants présents:**

- Haslam, Karen (Perth ND) for Ms Harrington
- Murdock, Sharon (Sudbury ND) for Mr Mammoliti
- Owens, Stephen (Scarborough Centre ND) for Mr Frankford
- Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Mr Waters

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

C12011  
X619  
-672

Commercial  
Publication

A-14



A-14

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Intersession, 35th Parliament

## Assemblée législative de l'Ontario

Troisième intersession, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 6 October 1993

# Journal des débats (Hansard)

Mercredi 6 octobre 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Subcommittee report

Rapport de sous-comité

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 6 October 1993

The committee met at 1136 in room 228.

## SUBCOMMITTEE REPORT

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call this meeting of the standing committee on government agencies to order. The first item of business is the report of the subcommittee. It's the one dated Wednesday, September 29, and Thursday, September 30. Since those selections were made by the subcommittee, the third item, which is Mr Robbie Goldberg with the Travel Industry Compensation Fund Board of Trustees—we were making that selection for October 13, but we haven't been able to confirm that he's able to attend at that time. Is he at a convention?

**Clerk of the Committee (Ms Lynn Mellor):** No, that's the other one.

**The Chair:** Oh, it's the other one. Anyway, we're looking to schedule him for the 20th.

**Clerk of the Committee:** If he's not available.

**The Chair:** If it ends up he's not available on the 13th, is it agreeable that we schedule him for the 20th? That's the first question.

**Mr Daniel Waters (Muskoka-Georgian Bay):** We have no problem with that.

**The Chair:** Okay.

**Mr Waters:** I move that we work him into the schedule as best we can, so if it means the 20th, fine.

**Mr Allan K. McLean (Simcoe East):** On a point of order, then, Madam Chair: Maybe I'm ahead of my time, but we didn't get a selection on September 30. You had a subcommittee meeting—well, I'm ahead of my time.

**The Chair:** All right, should we discuss that at the end of this page? Okay.

Item 5, we have under "Licence Suspension Appeal Board" Mr Murray Waldman. He is at a convention on the 13th, so he's not available on the 13th either, but he has confirmed that he's available on October 20. So if it's agreeable, we'll have him come in on the 20th. That's agreeable? Okay. Are there any other questions on the subcommittee report?

**Mr Waters:** It was my understanding, I guess I should start with, that we were going to, over the period of the fall, finish off the Workers' Compensation Board and do appointment reviews. I don't remember us going ahead with the Ontario Food Terminal starting on the 17th. Maybe that was just because we were having a somewhat casual, shall we say, subcommittee meeting where there were people popping in and out and I might have overlooked that. I just wanted that reaffirmed.

**The Chair:** Our subcommittee meetings are very formal.

**Mr Waters:** But at the last one, because of time, some people had to leave early and we had subs in.

**The Chair:** The agreement, Mr Waters, was, as has been printed, that we would deal with the Ontario Food Terminal first and then the Ontario Human Rights Commission. We also said we wanted to wait—it was mentioned, I think perhaps by you or Mr Curling—for the Premier's Council report.

**Mr Waters:** I'm guilty. Yes.

**The Chair:** Right? Do you remember now?

**Mr Waters:** Yes.

**The Chair:** Okay. Are there any other questions on the subcommittee report?

**Mr McLean:** The other question I had, Madam Chair, was, I wasn't available the Thursday afternoon that you made the selections.

**The Chair:** Yes.

**Mr McLean:** Unfortunately, there's a new appointment to the Ontario Municipal Board. I would have loved to have had the chance to interview the individual, the mayor of Kingston, I believe. She wasn't picked by anyone else. Am I too late now to ask for unanimous consent to have that pick?

**The Chair:** Unfortunately, those who weren't selected from that list last week have now been notified that they could go ahead with the appointments.

**Mr Alvin Curling (Scarborough North):** We have a question to raise on that, whether or not—she's now presently the mayor, and we're not quite sure. Are we going to confirm this before she resigns or can she hold both positions at the same time, which we think is not likely?

**The Chair:** I'll have Ms Mellor answer that question, because that question was raised in our subcommittee.

**Clerk of the Committee:** I've spoken to the secretary and they are going to confirm in writing, but she is going to resign. The date of the appointment isn't until November, but they're expecting her to resign before the appointment takes place.

**Mr Curling:** So when we appoint her, if we should appoint her—

*Interjections.*

**Mr Curling:** Is she appointed now? Is that what you said, Mr Waters?

**Clerk of the Committee:** They're proceeding with



the appointment because you didn't select her last week. So we had to let them know that she wasn't selected so they could proceed. So they have done that, but the appointment isn't effective until, I believe it was, November. She will be resigning before the appointment is effective, but I'm waiting for their letter to confirm.

**Mr Curling:** It's not perfect.

**Mr Waters:** She will not be coming before the committee because we did not select her last time.

**Mr Curling:** I understand that, but you see how screwy the whole process is anyhow. She's a wonderful person. I think she may be a very effective individual, but if you examine the process, you'll see how screwy it is anyhow. You know what I mean. The fact is—

**Mr Rosario Marchese (Fort York):** Move concurrence, Madam Chair.

**Mr Curling:** No.

**The Chair:** Mr Curling does have the floor at the moment.

**Mr Curling:** We would be appointing her before she resigned, but the appointment is beyond the immediate time, so the appointment is taking effect November 1, is that it?

**Clerk of the Committee:** I'm not sure of the exact date. It's in November.

**Mr Curling:** But they're saying then, when we do appoint her, since she's appointed as you said now she is, but we're not even quite sure when she is. But the appointment will take place after she resigns, but she hasn't resigned. And we don't have an exact date for the appointment. I'm just interested to look at that procedure.

**Clerk of the Committee:** The authorization for the appointment is being done. The appointment doesn't take effect until the date, which I'm not sure exactly of, in November.

**The Chair:** If there isn't any more discussion, would someone like to—

**Mr Waters:** I'd like to bring up one more point. I spoke briefly to you, Madam Chair, out in the hall about it, and it isn't that I'm opposed to us looking at the Human Rights Commission in the winter recess, but do we want to tie ourselves to it at this point, or do we want to indeed leave that open until the end of November or early December and then say, "Okay, there's nothing else that's come up"? Do we move on with it at that point? Or if something else has come up, it might be tying our hands so we don't have that ability, and I wanted that question answered.

**Mr Curling:** Are you saying then that examining the Ontario Human Rights Commission at that time—I'm not quite sure if I understand what you're saying.

**Mr Waters:** I'm not saying no to examining it, Alvin. What I'm saying is that there could be something

that is politically more sensitive that we might want to prioritize in front of it by that point in time as the committee.

**Mr Curling:** Like what?

**Mr Waters:** I have no idea, but politics is not a stagnant business.

**Mr Curling:** So we put everything on hold then until something hot comes up.

**Mr Waters:** Till the end of November, and then if we decide to go ahead, then we direct the Chair and the clerk and those people on staff to go ahead with it and get it planned for January or February, whenever we could have our week.

**The Chair:** In fairness, when the committee decided to review the three agencies, the one that we're already in the process, of course, which is WCB and these other two, the committee approved that recommendation from the subcommittee.

It is in order for the committee as a whole to amend, when we review those agencies—and if you wish, you may in fact add another agency and decide to do that ahead of either of these other two that are already on the list.

So what Mr Waters is asking is, can we leave it maybe another month and see what other agency may come forward that we may want for some reason to review ahead of one of the—well, we already will have started the food terminal, but ahead of the Human Rights Commission. So it is within your power to amend that list of agencies for review.

**Mr Marchese:** I appreciate what you've said, but I appreciate as well what Mr Waters is saying. I have a different view of this issue. Given that we have interviewed individuals from the Ontario Human Rights Commission and the commission itself, my personal view is that we demoralize the commission and the workers of the commission each time we bring them here. I would like to understand from the subcommittee members—obviously there were three or four of you there—what your view was, whoever the subcommittee representative was, that you would want to have the commission here again. I would be interested in knowing that.

**The Chair:** Let me just clarify one point here, because I think it's important—in fact, two things. First of all, any agency that we're going to review, we have to give it a month's notice, in fairness, in order for it to prepare, a minimum of a month in order for it to prepare, not only for the agency but for our research as well.

But the second thing is, we can amend this report now in terms of time. In other words, you can decide as a committee not to review OHRC now but later, but you can't take it off the list without unanimous consent. That means all three parties have to agree if it's going



to be taken off completely, but the committee can decide when.

**Mr Marchese:** I raised different questions. I know you were talking to Lynn as I was raising the points.

**Mr Curling:** Let me respond to Mr Marchese's question. First, I don't think when any group comes before us we demoralize it. You may; I don't. Because this agency itself is to see if we can improve upon the efficiency and sometimes to understand its intent better. So the Ontario Human Rights Commission comes before us not to be demoralized. That's one.

The other part, the reason why I think it's good timing is because at the moment we are going through things like employment equity, which actually has a great impact on what the commission does and there are some questions and some assistance and support of that bill that could be understood through it presenting to us. They're also, right now, going through their little internal changes, which of course we thought the minister would have announced, but we'd like to understand where the Ontario Human Rights Commission is before it's too late.

**Mr Marchese:** In response to that, it may not be the intent of the Liberal member to demoralize, but bringing members here and the commission here on a regular basis demoralizes them. He may not believe so and it may not be his intent, he argues. In fact, what he argues is that he wants to make them more effective by bringing them here. I don't know how he would do that. But my sense is that it does demoralize people when you bring them over, and if you don't give the commission plenty of time to do the job it needs to do so that you can properly evaluate the steps it's taking to improve, it has the effect of doing what I suggest. So it's a problem for me.

**Mr McLean:** I can't believe what I'm hearing here. We got the same line from the member for Muskoka-Georgian Bay when we wanted to deal with the WCB: "You demoralize them, bringing them here." Do you not want to have anybody come before the committee? Do you demoralize them all? Let's have some common sense and have them in and let's see what they're doing, see if they're in line and let's check out what the Human Rights Commission is doing. Accountability is what it's all about.

**Mr Curling:** Exactly, accountability.

**Mr Marchese:** Madam Chair—

**The Chair:** Just a second. Mr Mammoliti, Mr Waters and then Mr Marchese.

**Mr George Mammoliti (Yorkview):** I'm glad Mr Marchese asked the question in terms of what questions you may want to bring forward when they're in front of us. Mr Curling had responded by saying that he's concerned about the employment equity package and he feels that it's relevant to their task and their mandate

and would want to ask a number of questions around that. I really don't have a problem with that myself, but if we're going to ask questions that we may have asked a number of months ago and be repetitive on a number of areas that I believe would be just a total waste of time, then I would agree with my colleagues and say that it's really not necessary.

In terms of employment equity, I can see some relevance to the people who we might want in front of us and their particular mandates. If we're going to stick to that particular item, I don't particularly have a problem with it, but if we're going to become repetitive and ask the same questions we've asked them in the past, then I have a problem with that.

1150

*Interjection.*

**The Chair:** Excuse me, Mr Curling—

**Mr Mammoliti:** I don't know what you're going to ask, Alvin. If the concerns are employment equity and the questions are of that, then—

**The Chair:** Mr Mammoliti, maybe I could help here. Bear in mind that the Ontario Human Rights Commission has already been selected as an agency to come before the committee. It can only be changed by unanimous consent. When an agency comes before this committee, there are no limitations about what can be asked of that agency. That agency is fully accountable in any part of its operation to review by this committee.

**Mr Mammoliti:** I realize that, Madam Chair.

**The Chair:** You can't now put limitations on what could be asked or what could be dealt with. So if you were going down that road, I just didn't want you to think that there was that option. There isn't that option because of the way the committee operates. The mandate of the committee is to review agencies and there's no guideline as to how that review is done.

**Mr Mammoliti:** But I trust my friend's word, Madam Chair.

**The Chair:** Pardon?

**Mr Mammoliti:** I trust my friend's word. If he says that he's going to be very specific, then I trust him at that. I wouldn't think he'd go off on a tangent and ask irrelevant questions.

**The Chair:** Mr Mammoliti, it's entirely—

**Mr Mammoliti:** You've made your point, Madam Chair.

**The Chair:** Okay. Mr Waters, Mr Marchese and Ms Witmer.

**Mr Waters:** I want to deal with the statement by Mr McLean and then I'd like to make a statement, I guess, over this other—as to Mr McLean's statement that he heard the same thing when it came to the WCB, well, he did, and when you looked at the hearings, other than something about flooring that somebody ranted and



raved about for three days, the rest of it was dealt with in a report from the resources development committee in 1991 and everything has been moved on, pretty well every other comment. These people spend all their time preparing for us instead of getting on with the job and that's a concern.

On having the Human Rights Commission coming before the committee, it is a long-standing practice of this committee that the subcommittee choose one from each political party, and I respect that. Alvin and the Liberal Party chose the Human Rights Commission and therefore I respect their right to have that commission come forward.

The only thing I was trying to get at was that indeed they have the right to bring it forward and we have a tentative time and if it's just a tentative time, I don't think I have so much problem; I just didn't want to commit because we all know, from all three parties, that things change here rather rapidly at times and I didn't want us to be committed to something when something else could come up that is much more of an immediate problem that had to be dealt with. That was all I was concerned about, but you have a right, Alvin, to bring them in. I was just concerned about committing ourselves.

**The Chair:** I think one thing we have to clear up is that the wording in your subcommittee report to you as the committee members this morning is very specific that OHRC would be during the winter recess. If you want some latitude there, you've got to change your subcommittee report wording that's before you now. Ms Witmer, you were the next person to speak.

**Mrs Elizabeth Witmer (Waterloo North):** I just would like to see us come to some decision regarding this subcommittee meeting, Madam Chairperson. We have a letter here which I think is much more important and needs to be dealt with, because it pertains to information we discussed in the past. Let's move on and resolve what's happening here, please.

**The Chair:** Is somebody going to move the report as it's written?

**Mr Waters:** Okay, and then we can make—

**The Chair:** Mr Marchese.

**Mr Marchese:** I just want to make some quick comments because they are of concern to me. Mr McLean talked about Mr Waters having the same opinions on the WCB. My worry about what we did with the WCB is that since 1974 they have been doing study after study of the WCB, and staff has to change its direction every time there is a different study with a new direction with a new political party in power, so there's no stability to do the work they need to do.

I was making a similar connection with the Ontario Human Rights Commission. When they come here, they have to prepare themselves, as the WCB did with all of

its staff, ready to answer questions, and of course they should. But my feeling is that what Mr Curling and Mr McLean want is to be able to ask questions they could not get answered in the employment equity hearings; I am anticipating what you may want.

**Mr Curling:** Stop anticipating me.

**Mr Marchese:** If I am wrong, we will see that, but those are the questions I am raising.

**The Chair:** Okay.

**Mr Marchese:** But, Madam Chair, I didn't finish the point.

**The Chair:** I think we're starting to repeat ourselves.

**Mr Marchese:** It's not repetition. To do a review of this agency just for that, in my view, would be a total waste of time.

**The Chair:** Mr Marchese, that's your opinion and the agency has been selected.

Mr McLean, were you moving the report?

**Mr McLean:** He moved it.

**The Chair:** Mr Waters? All right. You're moving this report with those amendments for October 20, if necessary, for those two cases we referred to.

**Mr Waters:** Yes, and one further amendment that I would like to table, item 2, until shall we say the first week of December so we can be certain that indeed is the one we wish to proceed with during the winter break.

**The Chair:** Item 2 on this report would then read, "The committee commence its review of the Ontario Human Rights Commission during the winter recess, subject to review by the end of November"?

**Mr Waters:** Yes.

**The Chair:** All right. All in favour of that report? That report is carried.

#### WORKERS' COMPENSATION BOARD

You have been circulated two letters this morning that came to me as Chair of the committee. The first one I'm asking you to look at is the one from the Office of the Provincial Auditor.

When I received this letter, I realized that Mr Peters is saying in his last paragraph that he will advise me of the specific passages he is concerned about from the Hansard of our committee hearings on September 15. I have not heard again yet from Mr Peters which passages he is referring to, but I felt this letter was very significant and very important for the committee and that's why we added it to discuss this morning, because normally our subcommittee reports are dealt with in three minutes. I thought, still meeting at 11:30, we had ample time.

This letter obviously makes some very significant statements. Perhaps the committee is going to want to

invite Mr Peters to come before the committee to discuss what his concerns are about statements by Mr King which are either misleading or factually incorrect, as he states in his letter.

I would like some direction from the committee about what you'd like to do with this concern of Mr Peters.

**Mrs Witmer:** Obviously, Madam Chair, this is a very, very serious issue that has been raised by the Provincial Auditor, indicating that Mr King has made misleading or factually incorrect statements regarding the new WCB headquarters. I think it's absolutely essential that the auditor does have an opportunity to set the record straight regarding the comments and to provide this committee with the important facts. I suggest that this letter be tabled and that we meet with the auditor as quickly as can be, and that be decided at the next meeting of the subcommittee.

**Mr Waters:** I would like to see the letter tabled. I would also suggest that we immediately get in writing from the Provincial Auditor his concerns and indeed details of his allegations. If we decide at that point that we need to have him in to verbally reinforce those or to explain that rationale, then we should do that. But I'd like to see something in writing first from him so that we can sit down as a committee or a subcommittee and at least look at this. Then we can determine whether we need to have him physically present for questions and answers or not.

1200

**The Chair:** Can I just say something? I don't think Mr Peters is making allegations here. He's saying that he will advise us of what the specific passages are. I think in fairness, as your Chairman, I don't want to get into writing letters back and forth between me and Mr Peters. I think it would be far more effective to have Mr Peters come and speak in person to the committee rather than get into a paper chase.

**Mr Curling:** I agree with Mr Waters. Here is a letter saying that he has some concerns that comments were made or statements were made in Mr King's testimony before the committee that could be considered either misleading or factually incorrect. As he said in the last paragraph, "I will advise you of the specific passages to which I am referring." I think we should await the Provincial Auditor's comment, and then at a meeting, we decide whether that comment that he made—or as he said, maybe Hansard may correct some of the perceived misleading stuff. Before we decide to ask the auditor to come before us, let us hear what he has to say first, as written, and then we'll take the decision thereafter.

**Mr McLean:** I wanted to say the same thing. Let's see what he has in writing. As soon as we get it in writing, the subcommittee should meet then to determine what we're going to do with it.

**Mrs Witmer:** I would disagree with that, Madam Chair. I believe that the fact that the auditor has written this letter to you indicates that he has some very, very grave concerns regarding the misleading or factually incorrect testimony that was provided by Mr King. This is not the first time Mr King has provided misleading or factually incorrect information. We know this has occurred before.

I believe it's absolutely essential that we invite the auditor to our committee and that we air this. I believe this particular WCB issue of the new headquarters has caused nothing but chaos in this province and I think the public deserves to hear the truth. Obviously, what we've heard from Mr King is not the total truth. There's misleading information. I think it's absolutely essential that the auditor come in and address this committee and that we have an opportunity to ask him whatever questions we have. I would support that direction.

**Mr Marchese:** My sense is that Ms Witmer makes some very provocative statements when she says that this is not the first time Mr King makes misleading statements. I think it's provocative. My sense is this: The auditor makes some allegations of misleading information. We should see what that is. As two or three other members have said, once we've seen that, none of us are ruling out the need to hear the auditor, or in which case, to hear the auditor with Mr King present as well, so we could have that kind of discussion with both of them. I'm not ruling that out, but we should see the information first and then we'll decide.

**Mr Mammoliti:** I just want to remind Mrs Witmer that in the letter, the auditor says he would want a chance to look at the final Hansard before advising us. It's an assumption on my part, but I assume that he'll advise us in writing. He's not coming out and asking us to put him on the agenda to come in front of us. I would suggest we listen to what he has to say and read about it in a letter and then take the appropriate steps. I think it's premature to do it any other way, Mrs Witmer. If and when we do ask him to come in front of the committee, I would strongly suggest that Mr King be here as well. If these allegations are correct, then I'd like to hear what Mr King has to say about that as well. So let's not be premature on this. Let's just wait it out and find out what he has to say, and let's find out what he has to say in writing first before we make some sort of a decision as a committee. I think that's a more reasonable position at this particular time. Anything else would be premature.

**Mrs Witmer:** Well, I think—

**The Chair:** Excuse me, Ms Harrington is next.

**Ms Margaret H. Harrington (Niagara Falls):** Very briefly, it's my understanding from reading this letter that the auditor is saying, "I will advise you of the specific passages." So my understanding is that he is not saying, "I want to discuss this with you," but there is



another step here, that he will advise us as to what we're actually talking about. So I would concur with, I believe, most of the committee that it is in the hands of the subcommittee to deal with this further.

**The Chair:** All right. So are you going to make a motion as to the direction now?

**Ms Harrington:** I think Mr Waters will.

**Mr Waters:** Okay. I'll make the motion that I think what we would like to see is, we would direct the clerk to make contact with Mr Peters to come out with specifics of what he's talking about in writing for us to review at subcommittee, and then we will make the decision as to whether we need to have Mr Peters here and Mr King back to answer those allegations.

**The Chair:** Would you agree, Mr Waters, that the letter should go from the Chair of the committee since he wrote to the Chair?

**Mr Waters:** Yes. It was an assumption, Madam Chair, that you would direct the clerk to do that for you. But definitely under your signature.

**The Chair:** Right.

**Mr Mammoliti:** Madam Chair, on a point of information, if possible: When the auditor decides to write a letter and mails it to you—I would assume it's to you—I would certainly like a copy of it. I'm sure that everybody on the committee would like a copy of it as soon as possible. So I would request that at least I be given a copy of it, because I'm concerned about this. I think everybody else should have one as well and not wait till the next meeting.

**The Chair:** Now that this has been dealt with by the committee, that would be standard procedure that everybody would receive a copy of his—well, we will send you a copy of my letter on your behalf and any response we receive from Mr Peters.

**Mr Mammoliti:** Okay.

**The Chair:** Is there any more discussion on that motion by Mr Waters?

All in favour of that motion?

Opposed, if any?

That's carried.

The second letter for you to deal with this morning, is the letter from Robert Fleming International Research, Inc. I realize you've just received this letter. If you need any more time to read it, I'm wondering what direction you would like, how you would like this letter dealt with.

**Mr McLean:** Could someone interpret for me the third paragraph on the first page?

"I was particularly interested in the committee's questions, as one of my clients is ManageAbility Inc of Michigan, a leading medical review firm which provides cost containment services to workers' compensation boards, insurance companies and municipalities of

Michigan and 17 other states. ManageAbility acts as a consultant to the Workers' Compensation Health Care Services Advisory Committee of Michigan."

So is this firm from Michigan supplying services to the WCB here in Ontario?

**The Chair:** No. In fact, apparently he did attend some of the hearing on the WCB, although I don't know him, so I didn't know him by sight if he was there. I think what he's saying is that he was particularly interested in the committee's questions on WCB as they evolved, and I think what he's saying is that he has clients who do this as part of their service. I think really what he's going on to suggest is that the committee might like to hear what kind of cost containment and other types of management this company does for their clients in the States. I think he's just offering them as a service to this committee, for this committee to hear from them if they think it's relevant to your review of WCB.

**Mr Robert Frankford (Scarborough East):** I wasn't here for the WCB hearings so I don't know all about this. It seems to me that this must presume that there is some similarity with the Michigan approach to workers' compensation and what we have here. I have no knowledge which would say that is or is not the case, but I think one should be very cautious about assuming that American consultants have the answers. I think we may be dealing with very different situations.

Let me remind you of the disaster in Manitoba recently where a high-priced American consultant was brought in to save costs and did by drastically laying off nurses, and that's another example of the frequent irrelevance of US experience.

**Mr Marchese:** I'm not sure the committee should spend time to listen to this group with regard to their speciality in tracking, analysing and verifying billings in medical—if anything, we might refer this letter to the WCB, given that is what's of interest to them, and that would be the most and the least we could do, I suppose.

**Mr Curling:** Actually, I understand what he's trying to do. He said he'd like the legislative committee to hear of his expertise, which was wonderful. I think during the hearing it would have been nice to have heard what kind of consultative approach and professional things that he does or his company does, and that will be fine, because even right now—and I raise it again—we have other committees that people were actually shut out of in hearing.

The provincial firefighters came to me today and they were concerned that they didn't get an opportunity to appear before a committee, because, as I said, they were too late and whatever other excuses were given by the government. So I would not actually support the fact of opening up a legislative committee again to hear this unless we decide that we're going to make this in other

instances where people who are local here can't even get before committees here because they were shut out.

**The Chair:** So what is the wish of the committee? This letter is addressed to your Chairman. What response? How do you want us to handle this letter?

**Mr Marchese:** My sense, Madam Chair, is that we've done our committee hearings on the WCB. This is something that might be of interest to people, but it isn't something our committee should be doing. But we might refer it to the WCB for their information.

**The Chair:** So we'll pass this letter on to the WCB to the chairman, Mr Di Santo.

**Ms Jenny Carter (Peterborough):** Might I suggest

that it be directed to the WCB.

**Mr Waters:** At the same time, when you're passing it on to WCB, I would be concerned if it went to WCB that it would in any way infer that we want it to hire these people. We want to keep the costs down.

**The Chair:** If the committee agrees, we'll just forward it on for their information. All right, is there any other business before the committee this morning?

**Mr Marchese:** I move an adjournment, Madam Chair.

**The Chair:** Thank you. All in favour of adjourning? Thank you.

The committee adjourned at 1214.









## CONTENTS

Wednesday 6 October 1993

<b>Subcommittee report</b> .....	A-253
<b>Workers' Compensation Board</b> .....	A-256

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)  
Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)  
Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

C-120-13  
XC19  
-657

Commissariat  
Public

A-15



A-15

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Intersession, 35th Parliament

## Assemblée législative de l'Ontario

Troisième intersession, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 13 October 1993

# Journal des débats (Hansard)

Mercredi 13 octobre 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Intended appointments

Nominations prévues

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 13 October 1993

The committee met at 1009 in room 228.

## INTENDED APPOINTMENTS

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call to order this meeting of the standing committee on government agencies. This morning we're going to review two appointments.

ROBBIE GOLDBERG

Review of intended appointment, selected by the third party: Robbie Goldberg, intended appointee as member, Travel Industry Compensation Fund board of trustees.

**The Chair:** I would like to invite Mr Robbie Goldberg to come forward, please, and have a seat. Make yourself comfortable. If you would like to make some brief opening comments to the committee, please feel free to do so. If you don't, we'll just start in rotation with our questions.

**Mr Robbie Goldberg:** Go ahead.

**Mr Allan K. McLean (Simcoe East):** Good morning, Mr Goldberg. I would like to get some information from you, if I can. You've been in the travel industry for quite a few years, I observe. Is it Sunquest or Conquest?

**Mr Goldberg:** Conquest. That's my competitor.

**Mr McLean:** Is that a bad name to some of them or a good name?

The 2,400 registered travel agents: Do they each pay into the fund?

**Mr Goldberg:** Yes, they do.

**Mr McLean:** Is it about \$240, or how much a year does it cost to register?

**Mr Goldberg:** There are two different types of registrants. There are the retail agents, who I think pay \$3 for every \$10,000 worth of business, and then there are the wholesalers; they pay more, about \$12.

**Mr McLean:** For every \$10,000?

**Mr Goldberg:** Yes, approximately.

**Mr McLean:** How much is in that fund? Do you have any idea?

**Mr Goldberg:** No. I'm not a member of the fund itself, but they just issued their yearly report and there's a deficit in it, I understand.

**Mr McLean:** There is a deficit? I haven't heard of many agencies or tour companies going bankrupt. I thought there'd be a lot of money in that fund.

**Mr Goldberg:** I'm not responsible for administering it, but there have been some bankruptcies in the last couple of years. It's pretty tough out there in all businesses.

**Mr McLean:** Do you think there are going to be more bankruptcies?

**Mr Goldberg:** I think over the past six or seven years there's been a weeding down and there are only a small number of big ones left. I believe that as far as tour companies are concerned, it's probably pretty well reached bottom.

**Mr McLean:** Are there any recommendations you would like to make that would make sure the customer is going to be refunded? Have there been some problems with that? Is it working now?

**Mr Goldberg:** There's no question the customer is well protected in the province. There's absolutely no problem there.

**Mr McLean:** But a while ago there were some people overseas and the company went bankrupt and they couldn't get them home for a few days.

**Mr Goldberg:** Which company was that?

**Mr McLean:** I don't know.

**Mr Goldberg:** As to the way it works, I'm the past president of the Canadian Association of Tour Operators and we have a trade organization. Even though we're competitors, we keep some standards for our own business. When a failure happens we get together as a committee on a voluntary basis. I'm currently the head of that and have been for the past while. We have to step in at the 11th hour, because we're not aware of when a failure happens until it does happen. We get together and we are responsible for bringing people home, or making recommendations to the government, which looks after this. I think the committee itself does a good job.

If you're referring to somebody not getting home on a certain day, the last bankruptcy that occurred this year was at the end of August, a company called Trendy Holidays, and on one given weekend there were about 500 people stuck in Italy. There are just not that many seats; there are regular people coming home. You can't invent an aircraft. But I know that the government took care of getting everybody home and I think the most anybody had to get home was a few days late or something because there were no seats.

**Mr McLean:** But at what cost to that individual? Would there be a cost?

**Mr Goldberg:** Nothing to the individual. The travel industry fund brought the people home on alternative equipment and it was up to the emergency committee, our private committee, to try to make the best deals with our own ongoing relationships with the airlines.



**Mr McLean:** Is that why you pay into a fund, to do that very thing, to help bring those people home?

**Mr Goldberg:** That's one aspect of it. The other aspect is that sometimes people pay money to a travel agency and then the travel agency closes its door and the customer obviously can't go on a holiday, so the fund pays them back what they paid to the travel agency. That's another aspect of the fund.

**Mr McLean:** I see. Does the board of trustees operate under the Ministry of Consumer and Corporate Affairs?

**Mr Goldberg:** I believe so.

**Mr McLean:** How many are on the board of trustees?

**Mr Goldberg:** I'm not sure.

**Mr McLean:** Has anybody briefed you with regard to the—

**Mr Goldberg:** I've been asked to join this board because of my experience in different aspects of the travel industry. I know the board is responsible for approving the claims that are put in. I know that aspect of it. How many people? I wouldn't know.

**Mr McLean:** Are rates up this year for people travelling on tours?

**Mr Goldberg:** A tiny bit because of the exchange. The rest of the components are pretty much stable. The world travel market hasn't come back yet.

**Mr McLean:** I have observed that some of them are up \$100 over last year, based on a \$300 to \$400 fare. Would I be correct in assuming that?

**Mr Goldberg:** I don't know. Each tour company is individual. If you're asking me about my tours—I'm answering for Conquest Tours—we're generally the same, except for the exchange. However, if you get into an American exchange program, such as a \$2,000 program to Jamaica or something that involves \$1,500 worth of hotels, that's gone up 10% over the last year. However, some of the hotels have lowered their rates too.

**Mr McLean:** Do you think, then, that the fund adequately protects consumers?

**Mr Goldberg:** As far as the fund protecting the consumer is concerned, there's no question in my mind. I think the fund itself needs—they are working on it now. We're trying to protect too many things. That's probably where there's a bit of work still to be done.

**Mr McLean:** The question I have is with regard to advertising. You'll notice a price advertised, but nine out of 10 times, that price is not available; it's sold out. You probably have four seats at that price. In the Michael Pepper 1992, the travel register indicated it was still concerned with truth in advertising in the industry. What's your opinion on that?

**Mr Goldberg:** I'll answer for my company. I

disagree with you about the one seat available or whatever you referred to. It doesn't do us any good to promote something we don't have. We have people who work and answer the lines and sell our seats. I really believe that if that practice itself did occur some number of years ago, I just don't believe it's occurring now. There's just too much competition out there. There are too many seats, too few travellers. I believe everything that's out there, even from my competitors, is available. There could be others who are doing something wrong, but I don't believe the big companies—

**Mr McLean:** I've found that fares to Florida this year are up \$100 over last year.

**Mr Goldberg:** I would disagree. I'm not sure who you're calling. This is not a push for my company.

**Mr McLean:** That's right. I'll give you lots—

**Mr Goldberg:** All I'm saying is we deal in charters. This is our business, leisure travel, and the charter fares that were released this year for the fall and winter of 1993-94 were exactly the same as for 1992-93, when they were announced. Now, granted, as the season goes on, there are fare wars and things change. But I can tell you the starting prices were exactly the same.

**Mr McLean:** Does your company purchase some planes, or do you rent them?

**Mr Goldberg:** We charter planes—that's the terminology—from different airlines.

**Mr McLean:** Is my time about up?

**The Chair:** You've got about 48 seconds.

**Mr McLean:** You can have my 48 seconds.

**Mrs Elizabeth Witmer (Waterloo North):** Just one question: Now that the Toronto separate board has indicated it's going to have two weeks of March break, will the fares for that second week go up, as they normally do during March break travel?

**Mr Goldberg:** Everybody's fares—I can answer from my company: They won't. Our books are put out in August and it's up to us to determine when we're going to charge more and less. It's out. The specific answer is we do not charge more on the second week for our company.

**Mrs Witmer:** But is there a possibility that people could change their rates, now that they know?

**Mr Goldberg:** I don't think so. For the past few years there have been places like Hamilton that have had the second week off. It's had no impact on our sales in terms of a positive push.

1020

**Mr Robert Frankford (Scarborough East):** I understood that with the airlines themselves, they don't pay into the fund.

**Mr Goldberg:** That is correct. I've been asked if the consumer is protected; I've said 100%. The biggest problem for the fund right now—and I understand it's

being considered in government legislation—is airlines or people who don't pay into the fund. In other words, people can do business in the province without paying into the fund, yet the consumer receives payment if they go under. We have to pay it out of our funds.

Out of the failures over the last two years, over 50% of the payments have been caused by non-registrants. The actual policing of the industry and the state of the industry—even though things are bad out there with everything—is not so bad at all. It's these non-registrants that are causing us a drain on our funds. We have to pay into it.

**Mr Frankford:** In the US there have been all sorts of reorganizations and strange things happening with major airlines. Has that been one of the causes?

**Mr Goldberg:** I don't think it's any easier to start an airline today—I think perhaps it's too easy to start one, but it's not changed despite hearing the word "deregulation." It's just that these airlines have started and they're underfunded and then after so many months they go under, and then people are getting paid back.

**Mr Frankford:** Yes, but when major ones get reorganized—I can't remember any specific ones; was Continental one?—does that put you at risk?

**Mr Goldberg:** There was, I guess a few years ago—this is just my personal knowledge—Eastern Airlines. There were some payments on that. Right now of course we have a major airline in our country where nobody knows the state of that. It's a concern.

**Ms Jenny Carter (Peterborough):** It seems to me that the travel industry as a whole is in a rather volatile, uncertain state at the moment, and the amount of money that your fund has had to pay out has rocketed from around \$100,000 a month just a year or so ago to a million in June 1993. Are we looking at a real crisis in the travel industry? What do you think is the long-term outlook here?

**Mr Goldberg:** I think the business itself has reached its bottom and it's on its way up. There's no question that it's the same as anything else. With the recession today, people aren't buying washing machines; they're probably not going on trips either. So we have to be responsible.

I know in my own business we watch what we sell in terms of the number of seats. That's the controlling factor. I think the individuals who are there still are all long-term people. We're 21 years in business and most of the others ones have been there that long. I think we run responsible businesses. But as to the payouts, as I said, half of them have been from people who don't even pay into the fund.

When you consider that the business as a whole in the province is probably about \$700 million or so and you have a payout of a couple of million dollars over a tough period, and half of it isn't even from registrants,

I don't think it's anything worse than things like—I'm sure it's not.

**Ms Carter:** I'm wondering what the longer-term outlook is here, because you depend on a lot of people having some disposable income. We seem to be looking now at a jobless recovery, so you wonder whether there's ever going to be as many people with money to spend on trips as there was in the recent past.

**Mr Goldberg:** Yes, it's a reasonable assumption. As an individual talking, we just take and change some of our—last year we went to 15 destinations; now I'm going to 13. I've increased my business to Florida. We're finding people who, let's say, went to Hawaii before say, "Hey, it's too much money, but I will go to Florida." That's how we manipulate our business to stay healthy.

**Ms Carter:** But also there seems to a lot of turnover of companies within the business. Now obviously, some of you are well-established businesses, but there does seem to be this very temporary element of people who try and then fail.

**Mr Goldberg:** As far as travel agencies are concerned, I don't have that statistic; it's not my area of responsibility, of course. There may be some that start up, just like they start up a restaurant or something, but I know as far as wholesalers, there's only been two major ones in the last year and a half.

**Ms Carter:** Bankruptcies, yes. So one just hopes that this whole system is going to be able to meet its commitments over the longer term.

**Mr Goldberg:** I think the system does work as far as the consumer is concerned. There are some improvements that can take place to make sure the fund is healthy, and I think they are being worked on now.

**Mr Rosario Marchese (Fort York):** Mr Goldberg, I was interested in the question Dr Frankford asked about airline failures. The fact that they don't pay into the fund but the fund pays out for their bankruptcies is a problem. I don't know how many bankruptcies there have been and what moneys have been devoted to that specifically. Do you know?

**Mr Goldberg:** Again from trade knowledge, it was one big payout. Over every month, I think, the fund meets and pays out some money. There was an airline, Yugoslavia, JAT, and I think they paid out close to—they had a tour company arm and it failed and they paid out over \$1 million last year approximately to people in Ontario. Of course, they didn't pay one penny into the fund, so that's a problem. We can't be covering the world.

**Mr Marchese:** Given that we can't regulate that because it's federally regulated, as I understand the problem, what would you recommend the Ontario government do in relation to airline failures?

**Mr Goldberg:** If we're going to make this a true



consumer fund, which means the consumer doesn't have to worry—

**Mr Marchese:** Right.

**Mr Goldberg:** I'm just saying that's one option. I've looked at some numbers myself. Travel is a luxury, in my opinion, except for taking a bus trip to Gravenhurst to visit your mother. I think if you put a user fee of \$1 per passenger, you'll come up with about \$12 million in one year in the province.

We can protect most things. I'm not saying that's the complete answer because we don't know how big, if we want to protect every airline in the world. We're saying now that if you walk into a travel agency and you buy a ticket from South Africa to London, England, on British Airways, you're still protected if that carrier goes bankrupt.

**Mr Marchese:** But I was asking a different question. What you're saying is if the passenger pays into the fund, then we could take care of all—

**Mr Goldberg:** To a fund or whatever.

**Mr Marchese:** Right, but I was more concerned about the airlines not paying into the fund, as opposed to the individual paying into a fund when airlines go bankrupt.

**Mr Goldberg:** I'm looking at it the same way. Somebody has to charge the \$1, okay? If the airline's going to charge the \$1, then the fare's going to go up anyway. Somebody has to pay into a fund.

**Mr Marchese:** I see, but at the moment the tour operators pay into the fund.

**Mr Goldberg:** Yes, we pay into the fund out of our profits.

**Mr Marchese:** Would you suggest that continue, or do you suggest we somehow pass that to the traveller?

**Mr Goldberg:** At this point, we've costed that part in our business. We can survive with that. However, if we're going to continue to allow unlimited access to the fund, there'll come a day when we won't be able to pay the increased taxes if the deficit goes too high.

**Mr Marchese:** But in the same way that you pass on this cost to the fund through the profits that you made, presumably airlines could do that as well.

**Mr Goldberg:** I guess they could, but then you're going to get into this thing about federal legislation. You're not going to solve that overnight, and I think you have to solve this overnight.

**Mr Marchese:** That's why I wanted to ask you what you propose. Given that you get into federal legislation, what should the Ontario government do in relation to that?

**Mr Goldberg:** I think you should go back to this thing about the customer and the province, because you have control over it and hopefully even the slow wheels will move faster.

1030

**Mr Marchese:** You said that 50% of the funds paid out are due to those who are not registered.

**Mr Goldberg:** Of late, yes, and it's mainly airlines.

**Mr Marchese:** Ah, it's mainly the airlines.

**Mr Goldberg:** Yes. There are very few. There's probably one stray case of some tour company in Los Angeles that—

**Mr Marchese:** I thought you meant tour companies.

**Mr Goldberg:** No. They are watched by the government. You can't do business in the province unless you're registered.

**Mr Marchese:** I notice that most of the cases received compensation, in fact almost all; that very few are denied claims, in terms of the statistics we have in front of us. For what kinds of reasons might we deny someone a claim?

**Mr Goldberg:** I'm not part of that process yet, so I can only give you my understanding. If somebody dealt with an unregistered agent—there are people out there that are sort of selling travel to friends or something, and you're just giving money like in any other business—scam artists.

**The Chair:** I'm sorry, George, we're out of time for your caucus.

**Mr George Mammoliti (Yorkview):** Thanks.

**Mr John C. Cleary (Cornwall):** I don't have many questions; it's pretty well been covered. I guess everyone blames the recession on the problems affecting your industry. Are there any other problems that possibly we don't know about?

**Mr Goldberg:** No. Problems that maybe existed a number of years ago have been cleaned up. I think everybody in there is trying very hard to conduct business, and those that are having problems are just walking into some bad business decisions, more than anything.

**Mr Cleary:** One thing has been mentioned to me for some time now, especially lately. There are some big tours leaving for England in mid-November. These customers almost go annually, and they say the way they're catered to in that particular country is the reason they keep going back. Would you care to comment?

**Mr Goldberg:** You're asking me if people going to England are treated properly?

**Mr Cleary:** They say the way they're catered to there is the reason they go back on a yearly basis.

**Mr Goldberg:** I think it's true. I go there a lot.

**Mr Cleary:** You do, eh? Okay, thank you.

**The Chair:** Mr Cleary, did you want to give Mr Mammoliti a minute?

**Mr Cleary:** Give it to anybody.

**Mr McLean:** No, he doesn't have any more.



**The Chair:** No? Then we have completed the time allotted.

**Mr Marchese:** Mr Cleary said you can give it to anyone.

**Mr McLean:** No. You haven't got unanimous consent.

**The Chair:** All right. Mr Goldberg, I'd like to thank you very much for appearing before the committee this morning.

M.J. CINDY DYMOND

Review of intended appointment, selected by the official opposition: M.J. Cindy Dymond, intended appointee as chair, Ontario Police Arbitration Commission.

**The Chair:** Our next appointee is Cindy Dymond. If you'd like to come forward, Ms Dymond, we'd like to welcome you to the committee this morning. If you wish, you may make some brief opening comment to the committee about yourself or the appointment, and if not, we can just start in rotation with the questions.

**Ms M.J. Cindy Dymond:** Thank you. Good morning. I would just to say that I'm very glad to be here today and I'm very glad to be considered for this position as chair of the Ontario Police Arbitration Commission. I will do my best to answer any questions that you might have this morning.

**Mr Cleary:** We'd like to welcome you before the committee. We just wondered why you're so interested in this particular appointment.

**Ms Dymond:** The reason I'm interested in this appointment is because my background involves a lot of work in a wide variety of justice issues, for government, for the private sector and for the non-profit sector, and because the position involves alternative dispute resolution, which is a very important interest of mine.

**Mr Cleary:** Thank you very much. My first question: We all hear a lot about our neighbours to the east. The Quebec municipalities have called on their provincial governments to give police the right to strike and eliminate the current binding arbitration process for salary disputes. I guess we would like your opinion on that and your feelings on the benefits and drawbacks of both the arbitration process and the alternative of allowing police strikes.

**Ms Dymond:** Well, the right to strike is not permitted for essential services like police services by virtue of legislation, and I don't believe that in this position anything I would do would have any impact on that particular situation. I believe the function of the commission is to assist in the development of conciliation and arbitration services and that any focus of the commission would be related to those types of issues and not to making policy decisions about the right to strike.

**Mr Cleary:** What advice do you intend to give the

Ontario government regarding these and other models for settling police salary disputes in the future?

**Ms Dymond:** For the next few years at least police salary disputes will, I expect, take not as much precedence as they have in other times because of the social contract. In this position, decisions about police salaries are subject to negotiation through conciliation or through the decision of an arbitrator or panel of arbitrators, so the decision would not be mine to make.

**Mr Cleary:** I think what you're trying to tell me is that your job may be easier for the next short period of time?

**Ms Dymond:** Well, in so far as salary issues are concerned. I'm sure there are other issues that arise in terms of grievances in the collective bargaining process, and the commission would still be dealing with those issues.

**Mr Cleary:** What role do you see for the commission in educating arbitrators with respect to policing matters and other working conditions?

**Ms Dymond:** One of the functions of the commission is to carry out research and to publish decisions of arbitration awards in police labour disputes. I think the main function of that information is an educational function for potential arbitrators so that they are well informed and are able to carry out their duties in a manner that gains the trust and the respect of the parties who are bringing the application before the arbitrator.

**Mr Cleary:** Another question I might have: How important do you view the part of the commission's mandate?

**Ms Dymond:** How important is which part of the commission's mandate?

**Mr Cleary:** Yes, the commission's mandate. How important do you view the part of the commission's mandate, the committee that you're going to be appointed to?

**Ms Dymond:** What part of the mandate are you referring to? The mandate in general?

**Mr Cleary:** I guess the grievances and—

**Ms Dymond:** The function of the commission, as I understand it, is to ensure that the entire arbitration process is carried out in a fair and impartial way. The commission itself is not conducting the arbitrations but is ensuring that a qualified panel of arbitrators is available to deal with those matters. That is the function of the commission, so obviously that's crucial.

**Mr Alvin Curling (Scarborough North):** As the mandate states it, are you personally satisfied that it's going in the right direction?

**Ms Dymond:** Well, I'm not working with the commission now so I'm not involved in any internal matters or I'm not aware of any problems that have been expressed with respect to the commission. To the



best of my knowledge at this point, yes, I am.

1040

**Mr Curling:** Let me ask you this then: Before being asked to serve on this, were you briefed at all by the commission?

**Ms Dymond:** No. The extent of my briefing was, when I applied for the position, I made a phone call to the commission staff and asked them to give me background on what position was available and how I would go about submitting my application.

**Mr Curling:** The reason I'm asking is because there are many competent people and people with great intentions serving on boards and agencies. What we have found is that some people who have come forward or been asked or who volunteer haven't got a full understanding of the mandate of that commission or agency. My understanding is that the ministries usually call those individuals in and give them a briefing about what is happening.

**Ms Dymond:** Prior to the appointment being—

**Mr Curling:** Sometimes prior to the appointment.

**Ms Dymond:** I conducted research myself on the mandate. I have the legislation, I have all of the public information that was available, but I conducted that research myself; I wasn't briefed by anyone in the ministry. I don't consider it appropriate to receive a briefing before an application is made.

**Mr Curling:** I'm glad you say that, because I have mixed feelings about that. Sometimes I think a briefing is important because some people want to serve on commissions and do not fully understand the implications of it and the time commitment of this. They have good intentions and then realize that it is more than what one offered. Sometimes we have feelings that when people who are briefed before, it is good.

On the other hand, when people come before us, it's almost like something has already been completed, that all we are over this side is a rubber stamp. We have no power to reject your application; the power lies over there. That is why I think my colleague was asking, "Having done your research, how do you feel about its mandate?" and you said you really don't know the intent or the full—

**Ms Dymond:** No, I didn't say I didn't know what the intent of the mandate was. I do know what the mandate is. I understand the mandate. I thought he was asking me whether I supported the mandate and I said, to the best of my knowledge, I support the mandate, because not being in the position yet, I'm unaware of any complaints about the mandate or any issues that have been raised with respect to that mandate. However, at this point I do support the mandate and I understand what it is.

**Mr Curling:** Okay, and I'm happy about it. Could I ask you one other question then? What other research

do you feel would be most valuable at this time in order to improve the commission? Could you give me some comment on that?

**Ms Dymond:** The issues that would improve the work of the commission?

**Mr Curling:** Yes.

**Ms Dymond:** The commission's mandate is restricted to arbitration and conciliation services as they affect police bargaining rights and collective agreements, so any issues that arise would be issues that come within that mandate.

The commission also has a broader general goal with respect to promoting harmonious personnel relations in the police forces, so that any issues that arise that could be grouped under that broad umbrella could be dealt with in a conciliation format by the commission.

**Mr Curling:** Ms Dymond, I should apologize for jumping in on you like this because my colleague has taken over—

**Mr McLean:** Because you were late, that's why.

**Mr Curling:** As my colleague said, I was late.

**Ms Dymond:** You are not jumping on me. I am happy to answer your questions.

**Mr Curling:** No, I was just saying I jumped into the middle of all of this, and I appreciate your answers. It is of extreme importance, actually, how the Ontario Police Arbitration Commission works, as you know, because many of the processes have been in question.

Last weekend or two weekends ago, I was sitting on a panel with the police and the public, and in this interaction with politicians—I think the members on the government side are not quite interested in the process, however—I find people are quite suspicious. I would like to get rid of that kind of suspicion of the behaviour of how police work in the community. That is why we asked those questions about how you feel about the mandate and what kind of research would be useful in order to improve the process. My question is, do you feel that the process needs to be improved?

**Ms Dymond:** As far as I know, there are no problems with the arbitration and conciliation processes that fall within the mandate of the arbitration commission. I do read the papers and I understand there are other problems with the community perception of the police in some cases, but I don't think those are areas that necessarily fall within the mandate of this particular commission.

**The Chair:** Thank you.

**Mr Curling:** Not even one more?

**The Chair:** No.

**Mr Curling:** Can I comment?

**The Chair:** No, I'm sorry. Mr McLean.

**Mr McLean:** Ms Dymond, I'd like to ask you some



questions with regard to your background. In 1982 you graduated from the bar?

**Ms Dymond:** I was called to the bar in 1982, yes.

**Mr McLean:** In your six years' experience as an independent legal consultant for a number of clients, did you work for any firm for any period of time?

**Ms Dymond:** Any law firm?

**Mr McLean:** Yes, law firm.

**Ms Dymond:** Not particularly during that period.

**Mr McLean:** I noticed you worked for Kennedy, Dymond from 1989 to May 1992.

**Ms Dymond:** Part-time. I also worked in a law firm shortly after I was first called to the bar, for two years.

**Mr McLean:** You were with Community Legal Education Ontario in the position of executive director, with overall responsibilities to a volunteer board of directors. What did that board do?

**Ms Dymond:** Community Legal Education Ontario is funded as an Ontario legal aid clinic with a mandate of public legal education for the province of Ontario. The clinic writes, produces and distributes materials about the justice system and legal issues for a broad range of clients throughout the province. They don't in fact offer legal services. Their activities are restricted to public legal education activities.

**Mr McLean:** What area in your résumé would reflect the experience that you have with regard to any arbitrations?

**Ms Dymond:** Well, that résumé is a few months old. I think I applied for this position in early June, and since then I have actually taken training as a mediator and I am qualified as a mediator now. I took that training with the Arbitration and Mediation Institute of Ontario.

**Mr McLean:** Is that a special course provided by the government?

**Ms Dymond:** Not by the government, no.

**Mr McLean:** By whom?

**Ms Dymond:** By the Arbitration and Mediation Institute of Ontario, which is a private institute that offers mediation training and arbitration training.

**Mr McLean:** You haven't had the chance to put any of that to use, what you've learnt there?

**Ms Dymond:** Well, I think the skills that the course teaches are skills that can be put into use in all kinds of practice, but I haven't conducted any mediation or arbitrations at this point.

**Mr McLean:** In your position as senior lawyer in a staff of nine providing research development with regard to the Ontario Task Force on Financial Institutions, was that report completed?

**Ms Dymond:** Yes. That was in 1985, I believe.

**Mr McLean:** What the essence of that report?

**Ms Dymond:** The task force was called in response to the failures of the various trust companies—I think this is going back about 10 years now—and it dealt with issues concerning the powers of the various levels of financial institutions and ways in which those institutions could be better regulated to safeguard public interests. I believe a number of the recommendations from the report have been put into place.

**Mr McLean:** Have you had any experience with regard to the Police Services Act? Do you know how it's set up?

**Ms Dymond:** I know how it's set up and I've read the legislation. I haven't worked directly in that field. My work with police has not been that direct, but I was involved with a number of representatives of various police forces across the country when I worked for the federal Department of the Solicitor General doing firearms control policy.

1050

**Mr McLean:** What about the arbitrators with regard to salary decisions? Would that be part of the job?

**Ms Dymond:** Salary of police?

**Mr McLean:** I'm talking about the salary of the police, yes. Would you be dealing with Lymer—who's the head of the Metropolitan Toronto Police Association?

**Ms Dymond:** All of the municipal police associations and the police services boards have their own collective agreement with respect to salaries of police, and the commission is only involved when there is a dispute and one of the parties requests arbitration or conciliation. That could extend to salary matters, although I don't think it will under the terms of the social contract for the next three years.

**Mr McLean:** The commission's responsibility includes sponsoring research on the subjects of agreements, arbitrations and awards. That course that you took would put you in good stead as far as that type of thing, wouldn't it?

**Ms Dymond:** In terms of understanding the arbitration process and what's required of a good arbitrator and how the whole system works, I think so, yes.

**Mr McLean:** Good luck.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you, Ms Dymond, for coming. We appreciate it.

You did mention earlier about the effect of the social contract. I'm sure all of us from across the province are seeing this right now in our newspapers, and certainly talk of the Ontario Police Arbitration Commission. Because I represent Niagara Falls, which is part of the Niagara region, we've certainly seen in the newspapers the importance of your work, from time to time, as a commission.

What I wanted to ask you, first of all, is your vision



as the head of this organization; whether you would see any need for change or improvement or direction that you would want to take the commission.

**Ms Dymond:** The five commissioners who operate as the commission only meet once every month or once every two months or as issues arrive. It's a very part-time kind of operation with a small staff that operates the administrative aspects on a day-to-day basis. I don't believe it's the kind of position that requires day-to-day direction and a lot of initiative taken by the commissioners to overhaul the system or anything like that. I don't anticipate that there will be a lot of major issues that require that kind of revision or overall revision. I think the impetus for any kind of change or revision would be coming from issues that arise during the course of my tenure on the commission.

**Ms Harrington:** Do you feel that the commission is now operating very effectively?

**Ms Dymond:** To the best of my knowledge, yes.

**Ms Harrington:** I see.

You also mentioned, earlier, mediation. How would you see your background with mediation affecting this job? Would you be interested in moving towards mediation as opposed to arbitration?

**Ms Dymond:** The request for mediation or for arbitration comes from the parties or from one of the parties, so I wouldn't be particularly promoting one over the other. In some cases I think mediation is more appropriate than arbitration, but in some cases mediation can't resolve the dispute, and in that case people do have to go to arbitration.

**Ms Harrington:** Is the job of the commission to select arbitrators?

**Ms Dymond:** Yes. I believe the commission has on hand a panel of qualified arbitrators who are experienced in police issues.

**Ms Harrington:** And what are some of the main characteristics that you would want in these arbitrators?

**Ms Dymond:** Given the sensitivity of police issues, I think it's very important in this particular area that arbitrators have some knowledge of the Police Services Act and police relations and have some sensitivity to the complexity of policing in Ontario. Those are qualities that I think are especially important for these particular arbitrators. But in general, I think the broadest but most fundamental qualification that all arbitrators require is impartiality and neutrality, and they have to have a well-developed sense of fairness and they have to be perceived to be fair by the parties whose dispute is being resolved.

**Ms Harrington:** Just one last question before I pass to my colleague. How would you ensure that the arbitrators do in fact know or have familiarity with policing issues?

**Ms Dymond:** I think there is a panel in place now of arbitrators who in fact have quite a bit of experience in dealing with these issues. I think their competence and their impartiality have to be evaluated, and in that way the panel becomes more and more qualified and more and more respected in terms of their credentials.

For new arbitrators, I think they can benefit from the research and publishing function of the commission and they can become more knowledgeable about past awards and how disputes have been handled in previous cases.

**Ms Harrington:** Would you also ensure that all segments of the population are represented, as arbitrators?

**Ms Dymond:** I'm not sure what you mean by all segments of the population.

**Ms Harrington:** Similar to employment equity.

**Ms Dymond:** Yes.

**Mr Marchese:** Just on the issue of mediation versus arbitration, and you talked about not promoting one or the other, my immediate sense would be to say that we should encourage mediation at all times. Is it your sense that you would know that at some particular moment mediation wouldn't work and therefore you have to immediately move to arbitration? Is that why you would say you don't promote one versus the other?

**Ms Dymond:** No, I'm saying I wouldn't be the person making that decision. The request for arbitration or mediation services comes from one of the parties to the dispute. If people request mediation services, then the commission is there to make sure those services are available to them. If arbitration is requested, then those services are available as well. I'm just saying it wouldn't be my decision which case was more appropriate, but in general, I think that mediation offers in many ways a more satisfactory resolution of issues than arbitration does and I'm in favour generally of promoting mediation as a primary form of alternative dispute resolution.

**Mr Marchese:** So you basically respond to the request for mediation or arbitration.

**Ms Dymond:** That's what the commission does.

**Mr Marchese:** You don't at any point say to them, "Have you considered this?"

**Ms Dymond:** Perhaps the commission, in dealing with those requests, is asked for advice on those points. I'm not sure because I don't work there yet, so I don't know how these things work in fact. But I'm sure that all of the police services boards and police associations are aware—I know they are—of the availability of both forms of resolution.

**Mr Marchese:** I know they would be. My sense would be to say that presumably you would have a sense of what they might want to do and would offer a suggestion rather than simply saying: "We're here for

mediation-conciliation or arbitration. You choose and we're there to do one or the other."

**Ms Dymond:** I think the forms are prescribed and they apply in writing for either one or the other.

**Mr Marchese:** On the whole issue of fairness, you talked about the need for arbitrators to be impartial, and I understand that. How do you as a commissioner decide what fairness is? Do you have a test for what fairness or neutrality might look like as you interview the arbitrators?

**Ms Dymond:** I don't think there is an absolute test for fairness. I don't think fairness can be determined by an appropriate answer to a single question or anything like that. Fairness is a very broad concept. It's kind of a generic concept, and it has something to do with the perception of fairness and not just fairness as an absolute principle, so there can be no simple test for fairness, but it has to do with experience, reputation and the perception of neutrality.

**Mr Marchese:** Have there been examples in the past where, through your experience, you might have encountered someone who was presumed to have been neutral but in the course of events it didn't turn out that way? Can we learn from those experiences about what to avoid or what to look for as we look for candidates?

**Ms Dymond:** As I say, I think it has a lot to do with the perception. In some cases, an arbitrator or a mediator may in fact be neutral and be impartial and be disinterested, but it may not appear that way to one of the parties. That's obviously a key component of it. Was there another part to your question?

**Mr Marchese:** No, that's fine. It's very difficult, this whole notion, but I understand you would base your opinion on experience and what people have done and the presumption of neutrality and all that.

**Ms Dymond:** Yes; and there is research done by the commission, and presumably that involves some analysis of previous decisions and whether they've been contested or whether there have been any problems with respect to them.

**Mr Marchese:** What would you do in the event that an arbitrator made a ruling and both parties felt that they were not treated fairly through the ruling?

**Ms Dymond:** There is provision for conciliation services where an arbitration award is perceived to be unfair by both parties. Presumably, they would be raising that issue and would be seeking some kind of

conciliation or mediation services to deal with that. Is that what you mean?

**Mr Marchese:** Well, a ruling is made. Both parties say, "This doesn't satisfy us." If that is the case, what would you do? You said there's something in place that they can then apply for.

**Ms Dymond:** They can apply for conciliation, but arbitration is binding. That's my understanding. It's a continuum, like a judicial hearing.

**Mr Marchese:** So if there was a ruling made by an arbitrator and both parties are unhappy, then there's nothing that you as the commissioner can do about that?

**Ms Dymond:** It might depend also on what the circumstances are and why the parties are unhappy. It would be unlikely that a decision would be unacceptable to both parties unless the arbitrator was perhaps impartial, so it might require some investigation of that issue.

**The Chair:** Thank you, Ms Dymond, for appearing before the committee this morning.

I would like to entertain a motion to approve the two appointees this morning.

**Mr Marchese:** I move concurrence, Madam Chair.

**The Chair:** All in favour of the motion? Opposed, if any?

**Mr Curling:** Are you voting on both of them at the same time?

**The Chair:** Yes.

**Mr Curling:** Just record it that I voted on the second one.

**The Chair:** All right. We're voting on the appointment of Mr Robbie Goldberg as a member of the Travel Industry Compensation Fund board of trustees and Ms Cindy Dymond as chair of the Ontario Police Arbitration Commission. On that motion, all in favour?

**Mr Curling:** Again, I'd make the point that I am only voting on approving Ms Dymond's appointment.

**The Chair:** That's clear and understood.

That motion is carried. Thank you.

I'd like to draw to the attention of the committee that on the reverse side of your agenda this morning, you will see that we did reschedule the other two appointments, as we discussed last week.

Is there any other business? There being no further business, I thank you for your attendance. The committee is adjourned.

The committee adjourned at 1104.



## CONTENTS

Wednesday 13 October 1993

<b>Intended appointments</b> .....	A-261
Robbie Goldberg, Travel Industry Compensation Fund .....	A-261
M.J. Cindy Dymond, Ontario Police Arbitration Commission .....	A-265

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)  
Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)  
Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)  
Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Martin, Tony (Sault Ste Marie ND) for Mr Waters

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

CARON  
XC 19  
- G52



A-16

A-16

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 20 October 1993

# Journal des débats (Hansard)

Mercredi 20 octobre 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Intended appointments

Nominations prévues



Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 20 October 1993

The committee met at 1021 in room 228.

## INTENDED APPOINTMENTS

**The Chair (Mrs Margaret Marland):** I call this meeting of the standing committee on government agencies to order.

MURRAY WALDMAN

Review of intended appointment, selected by government party: Murray L. Waldman, intended appointee as member, Licence Suspension Appeal Board.

**The Chair:** The first intended appointment for review this morning is Mr Murray Waldman as a member of the Licence Suspension Appeal Board.

Mr Waldman, would you like to come forward and have a seat? If you would like to address the committee with some brief opening comments, you may.

**Dr Murray Waldman:** No.

**The Chair:** All right, we'll just start in rotation then. This was a selection by the government party. Dr Frankford, would you like to start?

**Mr Robert Frankford (Scarborough East):** I must say, as someone who's been in practice for many years myself, I can't recall ever actually reporting anyone. Do you have any thoughts on the extent to which the reporting system works?

**Dr Waldman:** As you know, I'm chief of the emergency at Toronto East General Hospital. We have a policy of reporting anybody who should be reported under the act, and we even have form letters that are to be filled out and sent in to the Department of Transport. As to what percentage of these are complied with, I would think a fair percentage, but it's certainly not universal.

The act is quite broad in what you should report people for. I would think a lot of physicians either don't know the act or just don't bother. I would say the compliance is probably—at least in my place, I would like to think we get about 75%, but I couldn't guarantee it.

**Mr Frankford:** This would be in your particular setting.

**Dr Waldman:** Yes. In a private physician's office, I would imagine the compliance is very low, to be honest with you.

**Mr Frankford:** Do you have any thoughts on the extent to which the public is jeopardized by under-reporting?

**Dr Waldman:** In theory, I would imagine they are. In practice, running a busy emergency department for many years, I haven't seen, certainly, generalized carnage or people getting into trouble because they haven't been reported, either because of seizures or due to diabetes. I imagine it must happen, but I haven't seen any evidence of it.

**Mr Frankford:** You've not been appointed yet, so you don't have any direct experience with the board. Do

you have any idea of how it works?

**Dr Waldman:** Yes. Some of the gentlemen here have explained it to me in a fairly detailed way, so I do understand the mechanism and how it works.

**Mr Frankford:** So you would review case histories.

**Dr Waldman:** Of people who were applying to have their licences reinstated after having them removed, yes.

**Mr Frankford:** Have you any experience directly in something like that?

**Dr Waldman:** No. I have indirectly written letters on patients' behalf who want to have their licences reinstated. But I've never been in the position to reinstate them.

**Mr Frankford:** It sounds like an interesting challenge.

**Dr Waldman:** Yes.

**Mr Frankford:** Presumably things like diabetes would be quite problematic at times.

**Dr Waldman:** Yes, diabetes and epilepsy seem to be the major ones, at least that I encounter in my experience.

**Mr Frankford:** I'm on another committee where the college spoke to us—in fact it was about the reporting of health card fraud. They mentioned some of the difficulties in reporting and liability. I believe there was a fairly recent case in which some physicians were criticized at an inquest for not reporting, and then some said, "Okay, I'll err on the side of caution and overreport."

**Dr Waldman:** There are two issues involved and I'm intimately involved in both of them. One of them is the ethical issue involved in confidentiality, which is a large issue as to at what point does the public good supersede the patient's right of confidentiality. This is one of the things physicians are cognizant of when they're deciding whether to report people for various things.

The other issue is the legal one, are you liable if you do report somebody for something: (a) a breach in confidentiality; and (b) a lot of physicians don't want to open the can of worms of saying this person is unfit to do something because of the potential litigation. I think that certainly weighs heavily on a lot of physicians in their decision-making.

**Mr Frankford:** Is there someone else?

**The Chair:** Yes, there are four. Ms Carter is next.

**Ms Jenny Carter (Peterborough):** Welcome, Dr Waldman. You really do seem to be a great person for this appointment, because you've got the medicine and particularly the emergency medicine on one side and the ethics interest on the other, which really seem to cover it pretty well.

I see also that you were the founder of the child abuse prevention program at Regent Park, which is an interesting sideline to this. I just wondered if you could tell us a little bit about that and how you became involved.



**Dr Waldman:** I was one of the founders, I wasn't the founder. I was one of a group of people that put it together. Really, what it was—we lived beside Regent Park and we knew a lot of people who lived there.

I guess what we saw when our children were young is that one of the contributing factors to child abuse or child neglect seemed to be that parents, especially single mothers, were trapped in an apartment with a child 24 hours a day, nobody else to look after them etc.

We got together with a whole bunch of parents, not only from Regent Park but from the neighbourhoods and the local environs, and formed what was really a cooperative nursery so that the mothers could drop their kids off. They would work for one day a week there and the other four days they'd have three or four hours to get out.

We expanded that to have a toy-lending library. Everybody would bring in a couple of toys that they had and the other people could take them home. If the mothers wanted, they could come and sit around and have coffee. It was a very inexpensive thing, but it provided people with a break, which seemed to work very, very well. This was years ago, but I think it's still running. I've lost contact with it, as my children are now teenagers and into a whole new set of problems.

**Ms Carter:** Yes, it sounds a bit like a family enrichment centre we have in Peterborough, but I'm sure something like that can be a lifesaver to very many people.

Just one other point: We mentioned a couple of conditions, diabetes and epilepsy, that can be very relevant to driving and, of course, the other one that we hear about is alcoholism. I was just wondering if you could tell us anything about how these conditions interact with the question of driving.

**Dr Waldman:** The reason that diabetes and epilepsy are classically cited is that you can get a loss of consciousness and sometimes with extremely little warning, especially in diabetes.

1030

**Ms Carter:** Even with modern medications?

**Dr Waldman:** Yes, especially in epilepsy. With modern medications it's less, so the issue is that you really don't want somebody to be losing consciousness while they're driving. Alcohol and other things that impair cognitive functions are far more difficult to assess. Alcohol is obvious, but there are lots of other things that will impair people cognitively while they'll still be conscious. The whole spectrum of neurological diseases of aging, Alzheimer's, Parkinson's etc might impair somebody's ability to drive.

I have very strong feelings about alcohol, but there is legislation. How well it's enforced is another issue entirely, but I think things that leave people cognitively impaired are far more dangerous than things that leave them physically impaired. You can get hand controls for somebody who doesn't have feet that work very well, but it's harder to pick up somebody whose brain is not working very well. How you assess them and how you decide whether they're fit to drive is a very important issue.

**Ms Carter:** Do you feel happy about having to draw the line in individual cases as to whether somebody should drive?

**Dr Waldman:** I think the important thing here is individual cases. Like I say, in diseases like epilepsy where you lose consciousness, your end point is fairly well demarcated. In something like Alzheimer's, where you have a slow deterioration of mental function, it becomes much more difficult to legislate that you should take somebody's licence away at this point rather than that point. I think what probably is needed here is a far better education campaign to the public and especially to physicians as to the dangers of people driving who are cognitively impaired.

**Ms Carter:** Thank you.

**The Chair:** Mr Waters, and then Ms Harrington.

**Mr Daniel Waters (Muskoka-Georgian Bay):** I wanted to ask about diabetes. It's one of the things that I've had a number of constituents come in over. I know what the law is at the present time, but is the law indeed outdated? With modern medication, in a lot of cases these people are saying that a person who has a bad heart has just as much potential for an accident as they have.

**Dr Waldman:** I would tend to agree with you. I think that the diabetic part is probably anachronistic in a lot of ways. Diabetics do get into trouble, but usually they have a fair warning that they're getting into trouble and tend to pull off the road. Also, with modern monitoring equipment you can tell fairly quickly where your diabetes is at.

Diabetes by itself is not a criterion for losing your licence; at least in my understanding of it, it's only if you've had periods of unconsciousness because of diabetic seizures or coma, but this is becoming more and more unusual. I think physicians are aware of this, and very rarely do I see physicians taking somebody's licence or applying for it because somebody is just diabetic. You have to be very poorly controlled.

**Mr Waters:** The problem doesn't seem to be so much with a licence to drive a car. It's people who hold A and D licences, professional driving licences. I guess I fail to understand why it's all right to drive a car but it isn't all right to drive a five-ton truck.

**Dr Waldman:** I don't see that at all. I agree with you entirely. I think that it's a relative but not an absolute contraindication to an A and D licence, or it should be, as far as I'm concerned. If people have control, there's certainly no reason why they can't be doing everything everybody else is, and in fact with new technologies on the horizon of insulin pumps and tighter control, I think this will probably cease to be an issue in the next few years.

**Mr Waters:** Okay, thank you.

**The Chair:** Ms Harrington, there's one minute left.

**Ms Margaret H. Harrington (Niagara Falls):** The appeal board certainly tries to bring justice to people, as most appeal boards do. What changes would you see? I know you're probably not that familiar with how the board is operating at the moment, but would you envisage any changes to, say, whether or not the panel should



travel across the province and whether or not there should be more people involved on the board?

**Dr Waldman:** I wouldn't know, to be honest with you. I have no idea of the volumes and who you are seeing. It seems to me that you're judging things on evidence and the evidence should be fairly hard. In other words, it should be based on clinical reports and that.

I don't know if people have to travel across the province. You might be able to just, I would think, do it by submission rather than having people show up. It might not be necessary if the evidence that's provided is clinically valid. I don't know why the person would have to show up before the committee.

**Ms Harrington:** Some of these things maybe the board will be facing questions about, how they proceed.

**Mr Alvin Curling (Scarborough North):** Thanks for coming before the committee. The briefing notes I have here brought to light a concern that doctors do have of revealing any sort of clinical or medical condition that may cause them to be unfit to drive. When this is reported, I gather that doctors feel pressured that when the patient or the client does not get a licence, they are blamed for this. I presume the question was asked, how this could be done where the doctors would not get the blame to say, "I have just reported you because I revealed your medical conditions to those who are issuing the licence." They feel blamed about that.

**Dr Waldman:** I think you're looking at an issue, as I said before, of confidentiality versus public good. What I would think is that it should be made very clear to physicians that they're indemnified under law from any liability by this. Some of us know this, but a lot of physicians might not.

If you would advertise or let physicians know that it's their obligation to report people, just like you do in child abuse, and that the law will indemnify you against any prosecution for this, then I think the issue becomes much easier. If a physician would just tell a patient: "You've had this condition. The law requires that I report that you may be unfit to drive. It's up to the motor vehicle branch to decide to take your licence away or not. I'm not taking your licence away from you. I'm just notifying the branch, as I am required to do by law."

I think physicians have to know that they are indemnified and that this is a legal responsibility on their part. Otherwise they're placed in a very bad position, as you state.

**Mr Curling:** The question I have may have nothing to do directly with your role but will impact indirectly sooner or later. Lately I've been having quite a few people coming into my constituency office about the driving school and the operation and how people are being given licences. They suspect somehow that there is—how would I put it?—a lot of coercion, a lot of little influencing going on between the driving school and the Ministry of Transportation. That may be away out of your role, but what happens, they feel, is that many of the incompetent drivers who are coming out of there are because of how that is being done. I know you're not on the board yet, but would that be a concern to you if

we're getting a stream of people who are not being tested properly? In any system, it subjects itself to some sort of manipulation or some coercion in some respect. Would that be of concern to you?

**Dr Waldman:** I think it's of concern to everybody. There have been lots of proposals brought forward about people being given provisional licences or the first few years that you have a licence you can't drive on the highway or you can't drive alone and things. I think there might be, like we have in hospitals and everything else, a probationary period of being licensed that might address these. I can't speak to whether there's collusion between driving schools and the Ministry of Transportation, but I would think some of the proposals about conditional licences or probationary periods might address this issue.

**Mr Curling:** The reason I ask you that is because it seemed to me within this board it has the power of revoking licences. Those who will be issuing permits for vehicles, if I understand it correctly, may revoke or refuse to renew a licence for the performance of a vehicle inspection or what have you. I thought that within that area I asked a sort of closer monitoring could be done. Maybe you're not the individual who should do that, but I'm saying it will still have an impact on that.

**Dr Waldman:** It could. I really don't know.

**Mr Curling:** I have no further questions.

1040

**Mr Norman W. Sterling (Carleton):** First of all, doctor, I'd like to thank you for serving on this board. I think it's important that we have people of your background putting their names forward and coming up and serving on appeal boards like this. I'm sure it takes away from your time in your practice, which would no doubt be more satisfactory in terms of monetary compensation, but I do appreciate and my party appreciates your doing this kind of thing.

One of the concerns I have with regard to the appeal board is how a citizen of Ontario gets involved with the board. It relates, as Mr Waters has said, to an experience with a constituent of mine who was a truck driver and found, only when he went to renew his licence, that his licence was being denied to drive a truck because of diabetes, which he had had for some considerable period of time, five or six years, but was well controlled.

I would really like to hear your comments with regard to the whole process of how a citizen gets involved with the appeal board. I guess I'm most concerned about how the citizen is confronted with this law. It seems to me harsh and unusual that one day a truck driver has a right to make a living and then the next day, all of a sudden, he finds out he doesn't. In the meantime, it's very, very difficult for him, of course, to live. I think the whole process is very cruel to the citizen at this time.

**Dr Waldman:** I would in large measure agree. It seems that nobody should be surprised to find out that they're being denied a licence. In other words, if they haven't had a seizure or some time when they've been medically unfit to drive, I don't believe that they should have their licence revoked. I think that if somebody is surprised to hear that they are not getting their licence



renewed, then the system has broken down. I can't imagine a circumstance where somebody would have to appear before the committee and not know why. The mere fact that they have diabetes certainly doesn't constitute—I think one in 12 people or something has diabetes to some extent or another. So we're certainly not removing licences holus-bolus.

**Mr Sterling:** I don't think it's a question of appearing before the appeal board without knowing why. It's a question of going along for a period of time—I think this gentleman was three or four years or five years with diabetes. He claimed to me that it was well controlled and that he followed the dietary instructions as well with regard to his diabetes. He'd never suffered any unconsciousness. So I guess the concern to me is that the law should be such that it says, unless we get this thing straightened around within six months or a year, you will have an opportunity to appear in front of this appeal board before we take your right to livelihood away from you. There should be a notification process.

**Dr Waldman:** I agree with you entirely. I can't understand how somebody would all of a sudden, who has never had a problem with their diabetes, lose his licence. I don't know what the mechanism for that was.

**Mr Sterling:** It did happen to this gentleman. He was under this tremendous pressure during the period of time and fortunately the appeal board dealt with him in a favourable manner, but it was not a pleasant process. I didn't feel that the notification process was adequate.

There's no doubt you will be confirmed today in terms of your appointment. I'd like you to make some recommendations to this committee, if you feel so inclined after you have served on the appeal board, as to how you see the process could be improved. I know it's difficult as an appeal member to do that, but when there's a direct request from a member of a committee to make some kind of recommendations as to how the process could be improved, I think it has to be improved some way. At least my dealings with it does not seem to have been satisfactory in terms of how citizens are dealt with. I'm not sure it's just the appeal board; I think it's some of the steps that lead to it.

**Dr Waldman:** I think one of the things that you're saying and that bears looking into is that you have one body that takes away licences and a second body that's totally non-related that either gives them back or keeps them away, and that there perhaps should be stronger coordination between these two bodies. That seems to make eminent good sense to me.

**Mr Ted Arnott (Wellington):** I would just like to add—I can't really say anything different from what's already been said to you—I'm glad that you're coming forward to participate on this board. Like other members have indicated, I've had situations that have come into my constituency office where I feel that proper information has not been presented to a person who finds receiving a cold letter in the mail that their livelihood has been taken away. I think it's absolutely essential that greater steps are taken to ensure that reasonable communication is extended to these people, if indeed they're medically unfit to be on the road. You have a big respon-

sibility and it's a difficult job, I know, in dealing with the branch of the ministry that initially makes the determination based on medical reasons, and I suppose you have to review the medical information that's presented to you.

You have another responsibility and that is dealing with the vehicle inspection standards. I guess that's probably something you'll have to acquaint yourself with further.

**Dr Waldman:** I certainly know absolutely nothing about that, to be honest with you.

**Mr Arnott:** I suppose there'll be other people who are more inclined to understand the mechanics of the motor vehicle, but you'll be involved with the medical decision more so.

**Dr Waldman:** I would hope so.

**Mr Arnott:** I hope that you will take the advice forward that you've received from the committee members.

**Dr Waldman:** I certainly will.

**Mr Frankford:** Could I ask a point of information, maybe for the researchers, for Dr Waldman, but does the board provide a report or an analysis of its work? There's obviously a considerable interest in what it does, so I think that could be very useful to enlarge our knowledge of what it's doing.

**The Chair:** In fairness to Mr Yeager, if he wishes to answer that question, Mr Yeager doesn't have to write a report after the interviews, if that's what you were wondering.

**Mr Frankford:** I meant the board itself, whether it has any detailed annual reports.

**Mr Lewis Yeager:** I don't have any specific annual reports from the board itself, but I'll check that and find out and report back to you.

**The Chair:** Thank you, Dr Waldman, for appearing before the committee this morning.

1050

JEAN PIGOTT

Review of intended appointment, selected by official opposition: Jean Elizabeth M. Pigott, intended appointee as member and chair, Ottawa Congress Centre board of directors.

**The Chair:** Our next intended appointment is that of Jean Elizabeth Pigott as the intended appointee as member and chair of the Ottawa Congress Centre board of directors. I'd like to welcome you. If you wish, you may make some brief opening comments to the committee.

**Ms Jean Pigott:** I would like to. I'm a saleswoman, and you always bring some material.

Thank you very much for having me, because I have a little bit of a story to tell you. If I could just give you some history about the convention centre, it is 10 years old. We actually celebrated our 10th anniversary last night, along with the Westin Hotel and along with the shopping centre, the Rideau Viking 300-store shopping centre, which is beside us.

This is Confederation Boulevard, the heart of the



capital, and I've marked in a dark colour here the position of where the congress centre is. Ten years ago, this was one of the most remarkable urban renewal projects because this was a rather desolate area and the decision of three governments to put in the convention centre, which has 70,000 square feet—we can serve 3,500 people for dinner, that kind of thing, plus the shopping centre, plus the hotel.

I have spent a great deal of my life in the urban planning area. Let me tell you one of the despairs of North America and many other cities in the world is what is happening to their core areas. A lot of major cities are dying because they have not planned well to save the core part of their area, to keep people downtown, to keep retail downtown and to put in the right kind of transportation. The interesting thing about this area in the 10 years, 80% of the people who use this core area come by transit. We still have a car problem but, you know, there's never ever enough room for cars. Anyway, this is a success story.

Now the congress centre was built—

**The Chair:** Excuse me, Ms Pigott. I don't wish to interrupt you, but are you going to be very long?

**Ms Pigott:** No. Just quick, quick.

**The Chair:** All right.

**Ms Pigott:** Now what has happened in the 10 years, it is a success story because we've had three million visitors, we have produced 560,000 bed nights for the hotels, over \$200 million has been in direct expenditures by delegates and by taxes. It got into a little trouble. March 23, I received a phone call from the Premier's office asking if I would take over the congress centre as chairman because there had been some supposed mistakes made by the board. I agreed to take it for six months because I wanted to walk in to find out what was happening.

Three things: First of all, we had a special audit and the special audit is now complete and it has shown that there was no fraud, but there were mistakes and we have 26 recommendations for the MOU, plus all the other things to do. The second thing that I have discovered in the six months I have been there is that there is a future for conventions. We're in a depression. There's no doubt about it. It's been tough. But I am going to say to you here that after my research there is definitely slow growth but a decided growth in the convention business, so I believe the convention centre has quite a good history for the next 10 years.

**The Chair:** Thank you, Ms Pigott. This was a selection by the official opposition. Mr Curling.

**Mr Curling:** Thank you very much, Ms Pigott, for coming in, so we are able to ask you a couple of questions and have you inform us a little bit more about the centre. You say that it ran into a bit of trouble. I don't know if I'm reading properly, but it runs about \$50-million deficit each year. Is that right?

**Ms Pigott:** Yes. It's more than that. It's \$200 million at the moment.

**Mr Curling:** Each year?

**Ms Pigott:** Each year, yes.

**Mr Curling:** That's not a little bit of problem, it's a huge problem at a time when we are looking at trying to make sure that we run things efficiently. None of this is your fault at all. I gather that one of the problems that contributes to this situation is that the congress centre is either too small for certain things or too large for certain things; therefore, it doesn't generate the kind of money that it could do or be competitive. Since the Premier called you and said, "Would you like to take this thing over?" how do you see coming out of this awful deficit that it generates every year?

**Mr Sterling:** Could I just ask for a clarification? You said the loss was \$200 million?

**Ms Pigott:** Me? No, \$200,000.

**The Chair:** I think maybe we should wait till we get to your turn in rotation.

**Mr Sterling:** No, I just want a clarification of the figure.

**Ms Pigott:** It was wrong.

**Mr Sterling:** It's \$200,000.

**Ms Pigott:** Yes, \$200,000, sorry. I'm still back in the NCC days when I was talking millions.

Remember, it was designed and built, like most convention centres, 10 years ago. Remember the thinking 10 years ago: it was built as a loss leader. It was expected to lose \$1.2 million a year and would be subsidized by government for that amount—this government, the Ontario government. We have quite a good track record. It was coming down to half a million; it's now down to \$200,000. You're perfectly right.

My first thing I attempted was to find out how on earth—what do you do? Because I come from the business world, I expect places to operate profitably. I asked the minister if I could find out some way to find some financial stability for the next three years so you could turn it and you could find the kind of volumes you needed. What I had asked the ministry was if I could find a way—I went to a bank with my business plan to show how I could break even operationally with the Ontario government giving a guarantee.

I have gone to a bank, the banks have looked at my business plan and they have said, "If the Ontario government will guarantee your loan," in three years' time I will break even and I will begin to turn it into a profitable situation. How do you do that? First of all, you take a look at your marketing. We've done six months of very good research, we've built links with the tourist bureau, we've built links with the hotels. I'm appalled to tell you that for three years there was no concerted advertising to go out and find new business, even in the depression or recession. So the marketing is one thing.

The second thing is, you could turn a profit in that place—I know you can within three years—partly by being very efficient. We have gone through a restructuring. I've taken over \$225,000 out of the overhead of the place. The social contract is another thing but, sheer management of the asset, we've taken \$225,000 out this year. It won't show up till next year, but that's part of it.



The other one is capital. There's no way that kind of a centre can produce enough money for capital, but that's up to government. If we should increase, I'll put a business plan together or we'll put a business plan together that shows we need it. At the moment, we're only running at 54% occupancy. Most convention centres that are really successful and make money—and there are only a handful in North America—run about 70% to 74% occupancy. We don't need to grow any further at this particular point. Yes, I would love to have more display space, but that can be rectified by technology and better management.

**Mr Curling:** Governments haven't got the luxury any more to run loss leaders.

**Ms Pigott:** No, they can't, absolutely. I couldn't agree with you more.

**Mr Curling:** I presume the government has guaranteed you that it will continue to run some sort of loss leader, hoping that it could turn around within a certain time by guaranteeing the loans. I gather the congress centre spent thousands of dollars fixing the floors. The fact is, should that fail, who pays for that?

**Ms Pigott:** I believe that, because we are an economic generator, we produce—our taxes that we have paid in the last 10 years have covered any of the deficit that you have covered over the years, but the moral problem is that you should not be running on deficits. You have got to go out with a very clever marketing plan and you have to make certain that the private sector is involved in your marketing so that they're taking the initiative and the risk.

Secondly, when it comes to capital, I believe that either the regional government of Ottawa, the national capital region, or else this government, if there needs to be capital spent—but it would have to be based on a return to those governments. We don't need to do anything at all. Thank goodness this government—and I thank it very much for the money to repair the floor, because it was a health and safety issue; it had to be repaired. Now it's repaired, last year, we won the BOMA award, the government building award for preventive maintenance. It's in good shape. You have a very good asset in that place.

1100

**Mr Curling:** You come to this congress centre with a lot of experience, a lot of expertise; as a matter of fact—

**Ms Pigott:** Lots of mistakes too.

**Mr Curling:** —with your great business sense. Could I ask you this question then: If you had the money, would you buy that place for the private sector?

**Ms Pigott:** I think if the national capital region would accept the challenge that we are meant to turn into a convention and tourist centre, as the second metropolitan area in Ontario, fourth largest in Canada, we've got an asset that has never been fully exploited, which is the fact that we are the capital of Canada.

**Mr Curling:** I understand that.

**Ms Pigott:** If, for example, there was the kind of marketing plan that must be put forward by all the

partners, let me tell you I have a hunch that the private sector would say: "That's a pretty good asset, in good shape. Maybe we should take responsibility for it."

**Mr Curling:** If I understand you properly, you're saying if the government pumped enough money into this thing and—

**Ms Pigott:** No, no.

**Mr Curling:** In other words, they did so far with the floor. I think government has to start making some very, very important decisions on things that they're pouring into and not getting back the money. I think the services could still be there. I don't want to sound too much like a Conservative here to say that—

**Ms Pigott:** I sort of thought you were, sir.

**Mr Curling:** —only the private sector could run the business, can run businesses, because there is of course something too that the congress centre can contribute to society as a whole. Do I understand you properly to say that provided there's an adequate amount of money put into that to maintain it, like what the government has done in putting in the floor, bringing it to a sort of standard, that the private sector would be very willing to then buy it at that time because it's viable?

I don't know how long I have, but the bottom line I'm trying to—

**The Chair:** You have one minute.

**Mr Curling:** The bottom line I'm asking here is that continuing on that same train and taking over as chair of this, with all the problems that it has, what time frame do you give it to say—you said you only want it for six months?

**Ms Pigott:** Yes.

**Mr Curling:** What time frame would you give it to say, "We're on the right track, we're okay and we will be making a profit from this," or "It can maintain itself"?

**Ms Pigott:** I believe within three years, less than that probably. Remember, the Ontario government has committed to give us money till 1995. I believe that within three years, with this new board that's coming aboard and a new general manager, we will have it operating at break-even or profit within that three years.

I have no money for capital, but I don't think we're going to need any capital in the next three years. I do not think we're going to need any expansion in the next three years. On the other hand, unless I and the team we put together can work with the private sector, with the tourist industry and all those affected, the federal government, the NCC and the federal partners, to create a marketing strategy to bring people to the capital—one of the fastest-growing areas in conventions is the pre-package before-hand and post-package afterwards, and let me tell you, I've dedicated my life to bringing children to the capital.

I've watched Washington for too many years and have seen how they always bring children to their capital. I think we ought to have packages that when you come to a convention in the capital, you'll bring your family ahead of time, for the weekend before or the weekend afterwards. That's the fastest-growing area in the convention business. That's what I'm after.



**The Chair:** Mr Sterling.

**Ms Pigott:** I get going.

**Mr Sterling:** First of all, I'm extremely pleased, Jean, if I may call you that, Ms Pigott, that you were able to take this appointment. To get someone who was a president of one of the largest food-processing companies in Ottawa and then the chairman of the National Capital Commission, to get somebody with those qualifications to serve as chairman of the Ottawa Congress Centre, I think we couldn't have picked a better person in terms of having the ability to know what the tourist market's about for Ottawa-Carleton, and in fact for more than Ottawa-Carleton, for the Outaouais as well on the Quebec side. I'm very pleased that you've taken this position.

When Mr Curling talked about fiscal prudence in terms of how much the government is giving to the Ottawa Congress Centre, people in Ottawa-Carleton continue to sort of look to Toronto and say: "Well, yes, we're losing \$200,000 or \$300,000 a year on the Ottawa Congress Centre at this time. We may have to put a little bit of money in it."

But when they look down at Toronto and they look at this big Dome, which is just vacuuming up taxpayers' dollars and was basically the responsibility of Mr Curling's former government and the mess was created during that time, the people of Ottawa-Carleton get a little sensitive about the issue of provincial support for the congress centre and they say, "We think that the province of Ontario should be involved in this."

I guess my concern is what has happened vis-à-vis the board and the former chairman and the former manager of the Ottawa Congress Centre, and I guess my concern is the structure of this centre. Again, it appears that the former chairman, who I believe is involved with litigation at this present time with the Ottawa Congress Centre Corp—there seem to be a number of irregularities. I guess what it all pointed down to, and the bottom line as far as I was concerned, is that nobody seemed to be calling the chairman or the manager to account.

How do you see that changing at this present time? That's my chief concern. I think the Ottawa Congress Centre offers tremendous potential and I am angry that this potential has not been achieved in the past. We've lost jobs in Ottawa-Carleton because the potential wasn't achieved in the past. How do we keep you, Madam Chairman, and the manager in check? How do we make certain that these directors or the accountability mechanism are working in this whole structure?

**Ms Pigott:** There are three documents that I hope, if I'm appointed, I will work from. One is a strategic plan as to where we should be in the next three to five years. It's very important and it must be based on very good research. The second is a business plan. I'm not so worried about the business of coming down here to see your Treasurer about getting a guarantee; I'm just as concerned about presenting that to the bank, because banks always want to make sure how they'll get paid back.

The other thing—remember, I was in such dire financial straits this summer that didn't think I could pay the

bills in September and went to the regional government and borrowed \$500,000, almost on a handshake, that I would get the guarantee. So the business plan is very critical to me.

The other one is the memorandum of understanding with the ministry and with the government. I'm going to use a phrase that the auditor—you see, I didn't want to come until I had a special audit because I didn't want to commit myself unless there was a special audit.

If I can give you just one piece of history, I walked into the NCC in 1985, and four months after I got there the RCMP walked in and charged the general manager. I'm a little nervous of walking into places unless I know exactly where the books are. I asked for the special audit and the minister insisted that we have it. The special audit showed, and the expression by the auditors was that it was loosey-goosey; it was not tight.

I have said to the minister, "There are the 26 recommendations from the special audit." I have said to the minister that I hope she takes this report and sends it to every schedule 2 agency in the Ontario government, because it was fine in the 1980s. There was money and you could go back to the government and ask for more. Today you can't, and thank God for it, because all of us who work in non-profit organizations using government money should be as tight as a drum when it comes to accountability.

1110

Of these 26 recommendations, one of the first is the training of the board of directors. We will have about eight new people on board in the next month or two, and let me tell you, the first thing that's going to happen is training, how you operate as a board of directors of a schedule 2 agency, and also affecting accountability for public money.

Second is the memorandum of understanding. Of the 26 points right now, half of them are in process. One is the MOU, and let me tell you, I hope it's going to be a classic document between the ministry and ourselves. It's a very important document, and when it's finished I hope that you ask for a copy and that every time you talk to a non-profit corporation that asks for government money you make sure you have some kind of document like that in place.

**Mr Sterling:** In terms of the board, are there up to 12 directors on the board?

**Ms Pigott:** There are 12 directors including the chairman.

**Mr Sterling:** What has happened with the board in the past? Has there been a lack of interest, a lack of information?

**Ms Pigott:** I've always believed in renewal. I think you should serve on a board—I've served on many boards, profit and non-profit—and after two terms it's probably a very good idea to say goodbye. You become comfortable, you don't ask the right questions. This whole question of directors' liability has now sharpened up an awful lot of corporations, both in the private sector and the public sector. You have to learn how to ask the management questions. In fairness, these are all good



citizens of Ottawa, but I don't think they ask the right questions.

Second, we were mesmerized in the 1980s that building bigger factories was the answer, and you never—I mean, I come from a production family, a high-speed production family—build your factories to your peak demand. You always hit one in the middle, because you can't afford to have it lie empty. In fairness to the board, I think it was mesmerized by the idea that we needed more space, we needed these great big conventions.

Quick fact: Guess what's happening to the big conventions? They aren't as big as they were before because, with the recession, corporations and governments don't send 20 to 30 people to a convention any more; they send 10 or 12 and they are saying that what we need now is more focused conventions. You're going to find that they have to have very meaningful meetings and conventions, based on either technology or marketing or all the rest of it, or on heart disease and this kind of thing. I don't think we need a lot more growth either, but I think what happened was that it looked like a right idea to do this big development and we used up some of the good cash flow that we should have had.

**The Chair:** Mr Arnott, there's one minute left.

**Ms Pigott:** Sorry. Once you turn me on I can't stop.

**Mr Arnott:** That's okay; that's quite all right.

**Ms Pigott:** It's because I was an MP once.

**Mr Arnott:** Yes. I've enjoyed listening to you and I hope we get the chance to talk later. I'm the Tory Tourism critic and I think we'd be well advised to listen to whatever advice you may have. Ottawa's a beautiful city. I think we can promote it further as a tourism destination, as a hospitality destination, as a convention centre.

**Ms Pigott:** Absolutely.

**Mr Arnott:** Very briefly, do you have any advice on what we should be doing over the next two years to further that from the provincial government's perspective?

**Ms Pigott:** My own feeling is that you've got to turn to the private sector. The private sector has got away with the fact that they like to fight among themselves. We have got to have the strategies in place to pull the private sector and say, "Look, the capital"—I can speak only for that—"is a tourist place."

The tourist facts are fascinating. People today are looking for four-day weekends. How do you package for four-day weekends? How do you package for the young executive who's under great stress, who wants to see his spouse or see his kids, and you put the packages together? We've got to listen to the customer much more.

A quick, quick story—I promise it's a quick story. Sitting in a dinner party the other night, this man, in a very emphatic voice, said, "I'm only going to ski at such-and-such a ski place." We all turned and said, "Why are you so emphatic?" He said, "It's all because of the Kleenex." We said, "The Kleenex?" He said: "Guess what? They know enough about me as a customer that when I go to jump on the lift there's a great big box of

Kleenex." He said, "How did they know that I always need to blow my nose going up on the lift? I grab three or four things of Kleenex, I have a good blow on the way up and I say to myself, 'In this place, if they know enough about me to do that, my car will be safe in the parking lot, the ski hills will be well groomed, my room will be excellent and so will the food.'"

We have got to get to the Kleenex thing about tourism. It's true; we have got to understand the customer and service. I've lived in Switzerland. The Swiss and the Austrians have an incredible way of taking care of you as a person. We have got to get that in Ontario.

**Ms Harrington:** First of all, thank you for all your contributions to Ottawa. It's a wonderful city. I grew up in eastern Ontario and I have family in Ottawa.

**Ms Pigott:** Oh, good.

**Ms Harrington:** I hope you have been involved in the Ontario government's tourism strategy committee over the last four or five months.

**Ms Pigott:** I've been very close to it because one of our board of directors, Mary Kotys, is taking care of eastern Ontario and she and I talk on the phone to it every two or three days. I think what the ministry is doing is absolutely the right thing and I'm quite excited about it. I know they're going through the agony—I mean, they spent four or five days. I was so impressed, though, to hear that the deputy minister and the assistant deputy minister stayed all the way through last weekend as they were trying to wrestle with the words.

**Ms Harrington:** Good. I think it's very important. I obviously am involved in tourism a bit because I represent the city of Niagara Falls. We're interested in some of the same things. I was going to ask you what you see as the problems with the organization and your vision, but you've addressed most of that, I would think. Let me ask you two quick questions.

In the Ernst and Young study, one of the recommendations was that the issue of the expansion or relocation be addressed and put to bed one way or the other before a business plan was gone ahead with. I gather your answer on that is that there's not going to be a relocation or expansion. Is that correct?

**Ms Pigott:** What has happened is that our research tells us that the growth in the convention is in the smaller. We're all right; we can take care of that. We have two problems. One is how to work out some of the parking problems. The second one is that we need some more exhibit space. What we're doing is sitting down with all our partners to see if we can't make do over the three years.

The other one is technology. We had a huge show two weeks ago and, because the show promoter had used a computer model of the floor, we were within inches. We saved so much space. It was very tight and all the rest of it. I believe those are the kinds of things we need to do in the next two or three years to maximize what we've got. We can't justify going out today with any large scheme. Convention centres today are not—do you know the average convention centre in North America has 33% occupancy? We've overbuilt them; we've got too many.



**Ms Harrington:** So you will do the very best you can with what you have there.

**Ms Pigott:** Absolutely. Now, I might come back three years from now. You never know.

**Ms Harrington:** The other question I wanted to address was the suggestion with regard to having open board meetings. How do you feel that would work, and are you willing to go ahead with that?

**Ms Pigott:** I find this a very fascinating idea. I'll tell you my personal view, but I have to go before the board. This new board will have to address it. One of the reasons I would like it is that I find the citizens of our dear national capital region have to be more educated about the tourist industry and how we make it grow, because you'll only make tourism grow with repeat business, just as you've done in Niagara. You involve the community so that they become hosts and hostesses.

You know, 55% of all the people who come to the national capital region stay with family and friends. So let me tell you, if we could make the open meetings interesting enough that the press come after the first two meetings and it's not just controversy but it's good, accurate information—you must remember I come from a bakery background. My belief is that you build a bigger pie, that you don't design a smaller oven.

1120

**Ms Carter:** A lot of the ground has been covered very satisfactorily already, but I'm still a little puzzled about this question of size. It seems as though the centre is relatively small compared to others. You mentioned a figure of 70,000 square feet; we had a chart which gave it as 44,000.

**Ms Pigott:** In the *Globe and Mail*, I guess in the last month or so, there was a report on convention centres. Of the top five, we're the smallest. But we're in there. One of the problems today is that, to pay for conventions, many of the conventions want to have a trade show at the same time. One of our problems is that the fit isn't quite right. We should have some more display space.

But just between you and me and the gatepost, there is about 10,000 square feet across the street belonging to the government that isn't being used, and I'm negotiating right now. They want to keep it for federal-provincial. It's a building that I don't think any Premier in Canada will want to go into for quite a few years after what happened at the last two constitutional meetings. I'm negotiating to see if I can't find some extra space.

**Ms Carter:** That's interesting, because I understood that some organizations, like the Canadian Bar Association and the Canadian Dental Association, for example, wouldn't be coming because the facilities weren't there.

**Ms Pigott:** Maybe they shouldn't come. You know what I mean? We're not going to build space if it's only these great big giant ones. They have a convention every three or four years. I want to go after that middle section of the whole convention market. Sorry.

**Ms Carter:** Another question is the mandate of the board. You already touched on the question of having open meetings. Then there's the question, how much should the board be involved in the day-to-day affairs?

What exactly should it be doing?

**Ms Pigott:** I've been a chairman quite a few times in my life and I have been on a lot of boards. A board's responsibility and accountability is not to run the centre; that's management. You pay dollars to a good general manager and a good staff; they run it. What you must do is to make certain the policies are there, and then they are assessed on whether they are following board policies.

The second thing is, boards should look outward, not inward. Boards should be so conscious of what's happening in the marketplace, they should be helping you build your networks. I mean, I've been out on sales calls in the last month or two. It's great fun. Granted, one of the ones I went out on was a convention for 1998. It's a little far, but you've got to do that kind of thing.

**Ms Carter:** Another question I think you've more or less answered is the question of your relationship with the hoteliers and other businesses in the hospitality industry. I understand you would want to cooperate with them rather than compete. Is that right?

**Ms Pigott:** Absolutely, but it's a two-way street. They've got to cooperate with us. We have the largest facility. Bell-Northern Research couldn't function. They have 4,000 employees, so they need a room where they could have 2,500. But that's only one place. One of the problems is that there are a couple of hotels that have space for a dinner for 800 to 1,000; so do we. Now, how do we rationalize that? The only way I know how to do that is you've got to do it on trust. You've got to sit down, and there's some rough justice in there. That's going to take some management. But, again, go back to the fact that if we're worried only about divvying up the pie instead of going out and building a bigger pie, that's what I've got to get across to the industry. I'll make some mistakes probably, but I aim to try.

**Ms Carter:** Good for you.

**The Chair:** Mr Waters, a minute and a half.

**Mr Waters:** Gee, thanks. I seem to think these days that Ottawa's my third home, because Toronto happens to be my second.

**Ms Pigott:** Really?

**Mr Waters:** I'm back there again this weekend. One of the things I find very refreshing to hear, Ms Pigott, is the fact that you're looking to build the partnerships and you're looking at downtown Ottawa in its entirety and saying, "These are all of the resources of downtown Ottawa, this is how we fit into it and let's go out with the rest of them and work cooperatively to fill this place."

**Ms Pigott:** Absolutely.

**Mr Waters:** It's more a comment than anything that I have to make: I find it very refreshing. As a person who's been working as PA in the ministry for the last three years, this has been a very hot topic. In the last six months I noticed that the level of heat in the oven is turned down somewhat and we're not burning the product any more; we're now baking it.

**Ms Pigott:** Thank you.

**Mr Waters:** I appreciate all your efforts. The one question I would have, because I think Ottawa is prob-



ably a great place for other communities to look at, is, do you feel that historically the municipalities and the chambers of commerce within the municipalities have given enough recognition for the cultural, tourism, heritage and recreation industry, not only as to jobs but as the economic generator they are?

**Ms Pigott:** Have you noted that company towns sometimes get a little lax? We've been a company town, okay? Now we know that the company is in trouble and it may move out or reduce its size. That's very healthy. All of a sudden, you know your feet are a bit to the fire. Then, of course, I think we went through a stage where only high tech was the answer. There was this incredible \$450 million a year from the tourist industry and 28,000 jobs, but it wasn't sexy. It was sitting there, and suddenly I think people are saying, "Oh yes, this other lovely one, but they're not high-paid jobs."

Listen, what we need in this country is jobs, whatever they are. Suddenly you've got everybody saying, "Oh, let's take a look at the tourist and travel industry." Look what we've got: cultural tourism coming out our ears: 56 institutions, 18 festivals, sports tourism. We've now got the NHL and we've got the great success story of baseball and football. I'm not sure about the football, but anyway. Then we've got this recreational tourism, which is the fastest-growing area. We've got it all, but we've

got to learn to get a return on the investment of the Canadian taxpayer.

**The Chair:** Thank you. That's a good note to finish on. We appreciate your appearance before the committee this morning.

Members of the committee, you have two final motions. I would look for a motion for the approval of the two appointees this morning.

**Mr Waters:** So moved.

**The Chair:** Are you moving both?

**Mr Waters:** Both at the same time.

**The Chair:** Mr Waters has moved the appointment of Dr Murray Waldman and Ms Jean Elizabeth Pigott. All in favour of those two appointments? Opposed, if any? That motion is carried.

The second motion we require is the approval of the subcommittee report from this morning's subcommittee meeting, the selections to be considered.

**Mr Waters:** Sure.

**The Chair:** Moved by Mr Waters. All in favour of the subcommittee report? That motion is carried.

Thank you for your attendance this morning.

The committee adjourned at 1129. -











## CONTENTS

Wednesday 20 October 1993

<b>Intended appointments</b> .....	A-271
Dr Murray Waldman, Licence Suspension Appeal Board .....	A-271
Jean Pigott, Ottawa Congress Centre .....	A-274

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Arnott, Ted (Wellington PC) for Mr McLean  
Sterling, Norman W. (Carleton PC) for Mrs Witmer

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

CH70N  
XC 19  
-G 52

A-17



A-17

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 27 October 1993

# Journal des débats (Hansard)

Mercredi 27 octobre 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Workers' Compensation Board

Commission des accidents du travail

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 27 October 1993

The committee met at 1004 in room 228.

## WORKERS' COMPENSATION BOARD

**The Chair (Mrs Margaret Marland):** I would like to call this meeting of the standing committee on government agencies to order. All the committee members received due notice of this meeting, hand-delivered to their offices last Friday afternoon.

As your agenda advises you, with attachments from the Clerk's office, we are here to discuss the response from Mr Erik Peters, the Provincial Auditor, to a letter which I had written on behalf of the committee on October 6. For the recollection of committee members, you will recall that we had received a letter from Mr Peters dated September 29, which is also attached to your agenda, where he had identified some concerns he had with testimony given by Mr King before this committee when we were reviewing the WCB's new headquarters and other matters. The committee directed me to write to Mr Peters and ask him to identify what references in Hansard he was referring to, and you have a copy of my letter asking him to do that. The third letter you have this morning is his response identifying those passages.

I have just been delivered two more letters, as I was talking, that were faxed to my office, I guess, in the last five minutes.

**Mr Steven W. Mahoney (Mississauga West):** Hot off the press.

**The Chair:** Yes, one from Mr Peters and one from Mr King. Perhaps I can have the clerk make copies of those and we can add those to this morning's agenda as well.

**Mr Daniel Waters (Muskoka-Georgian Bay):** If I might, I think those two letters are very relevant to what we're going to be talking about, so I would suggest that we have a five-minute recess while we get those letters and have a minute to read them over. I believe they're very short.

**The Chair:** Have you seen them?

**Mr Waters:** I have not seen them, but I just saw the clerk walk by, and it appeared there was, like, a paragraph.

**Mr Mahoney:** How do you know they're relevant if you haven't seen them?

**Mr Waters:** How do I know they're relevant?

**Mr Mahoney:** You haven't seen them.

**Mr Waters:** Because I'm aware, through some discussions and phone calls I've made, that they're from Mr King and Mr Peters.

**The Chair:** Yes, I just said they were.

**Mr Waters:** Therefore, I believe they are relevant, so I'm asking for a five-minute recess.

**Mr Mahoney:** What's going on? Are there more attempts to stonewall things around here?

**Mr Waters:** No.

**Mr Mahoney:** You guys are up to playing your games?

**Mr Waters:** I don't have to put up with that.

**Mr Mahoney:** You can put up with any damn thing you want. You're playing games.

**The Chair:** Excuse me. Could we have the meeting in order?

**Mr Waters:** And I request a five-minute recess.

**The Chair:** Is there consensus to have a five-minute recess? No.

**Mr Rosario Marchese (Fort York):** You don't need a consensus, Madam Chair.

**The Chair:** There's no consensus for a five-minute recess.

**Mr Marchese:** Could I ask the clerk: The Chair's asked whether there's unanimous consent for recess. My understanding is that we don't require unanimous consent for that. Is that your understanding as well? Mr Waters has asked for a five-minute recess and the Chair said, "Do we have unanimous consent for that?" We don't need unanimous consent for that.

**The Chair:** If there isn't unanimous consent, then we have to deal with it by a motion.

**Mr Waters:** Then so moved.

**The Chair:** Mr Waters has moved a five-minute recess.

**Mr Mahoney:** Is that debatable?

**The Chair:** Yes, it is debatable. Any motion is debatable.

**Mr Mahoney:** I don't know what's going on, but the games that continue to get played by the backbenchers in this government every time there is an issue of concern or criticism or an issue that relates to a public confidence—obviously there's been some attempt to muzzle Peters or to do something, I don't know, but this whole thing really does stink.

Letters coming on to an agenda: Madam Chair, you'll recall in a former life how it used to be so upsetting when we worked in municipal government, how we'd always get items added to our agenda at the last minute, without any time to research or prepare or talk to staff or find out where they'd come from. It's always a matter of great concern. One of the things that I think we all have to be concerned about is the fact that the government has apparently been burning the midnight oil, as a result of questions in the Legislature surrounding the letter to you from Mr Peters, in an attempt to do something that is just almost undemocratic.

I recall the decision by this committee to shut down the auditor's report in relationship to the WCB building. I recall the fear that was there. I sat, myself, on the committee in the intersession when we had Mr Di Santo



and Mr King before the committee, and the defensive attitude of the government members in an attempt to try to protect, for some reason, their political appointees, Mr King and Mr Di Santo, and the concerns and the way they would act in a very upset manner when opposition members were simply doing their job and questioning both the policies of Mr Di Santo—all of us knowing full well that he's a former NDP MPP, an appointee of Bob Rae—questioning the management skills of Mr King, which even Mr King wouldn't object to. He knows, as a public servant, that he's subject to questions by opposition parties and should be subject to questions by government parties. But this government just wants to play cosy any time it appoints one of its members.

1010

All you've got to do in Ontario is carry an NDP membership card and everything is just rosy and nobody will ever question anything you do. It's just more examples of skulduggery and silly games that these people play.

I came here this morning as a sub on this committee, Madam Chair, with the full intention of asking questions about Mr Peters's letter and hopefully getting some answers. I would think the government members would want answers, because he's raised extremely serious concerns.

So whenever we recess, five minutes turns into 20 minutes. We're all busy, we've all got schedules, I've got a plane to catch, and we've all got things on our agenda. We now have the letters, copies of the two letters that have been handed here, and I suggest we just take two minutes to read them, not recessed.

**Mr Waters:** That's all I ask for, Mr Mahoney.

**Mr Mahoney:** Well, then, withdraw your motion to recess the committee.

**Mr Waters:** Well, then, so done. I'll withdraw the motion because I've now read them.

**Mr Mahoney:** Thank you very much. Read the letters. Do you want me to read it for you?

**Mr Marchese:** Steve, calm down.

**Mr Mahoney:** Don't play games like this. You guys are always manipulating in the back room.

**Mr Waters:** Steve, if anybody's playing games in here it's you, for the sake of the press.

**The Chair:** While you are reading the letters, I would like to identify the letter by date for the sake of Hansard so we know what we're discussing.

The two letters we have just received this morning, in addition to the three letters that were attached to your agenda—the three that are attached to your agenda, to clarify it again, are the original letter from Mr Peters to myself as Chair dated September 29, 1993; the second letter is my letter written as Chair of this committee, on your direction, on behalf of the committee dated October 6; the third letter is Mr Erik Peters, dated October 21, back in response to the questions the committee asked him to clarify about his concern with the Hansard from the meeting in September, the testimony of Mr King.

The two letters we received this morning are—I now

have been hand-delivered the original by the staff from the auditor's office. This is a letter, today's date, October 27, over the signature of Mr Peters, and the other letter—I don't have the original; it was faxed to my office a few minutes ago, apparently—is a letter over Mr King's signature addressed to Mr Peters, also dated today's date, October 27. It is cc'd to me as Chair, so it's just a matter that I haven't received the original. Those are the two letters that have been added this morning.

**Mr Waters:** Madam Chair, I think both letters are very important with discussions this morning. They're very short, so maybe we could get you to read them into Hansard for us so that we all understand them.

**The Chair:** All right. Which letter would you like me to read first?

**Mr Waters:** Probably it would be appropriate to start with Mr King and then finish up with Mr Peters.

**The Chair:** Mr King's letter dated October 27, to Mr Erik Peters, the Provincial Auditor, over the signature of Brian King, vice-chair of administration, the Workers' Compensation Board.

"Dear Mr Peters:

"I have read your letter to the Chair of the standing committee on government agencies dated October 21, 1993. I apologize for any misunderstandings about the objectivity and factual content of your report and actions which have arisen as a consequence of my presentation to the committee. I believe that your letter to the Chair of the committee has clarified the situation.

"We are currently implementing the recommendations from your special report on the new headquarters for the Workers' Compensation Board. I would like to meet with you as soon as possible to bring you up to date on our progress and to obtain your assistance in making further improvements to the accountability framework within which the WCB operates.

"Yours sincerely,

"Brian King."

The second letter is on the letterhead of the Office of the Provincial Auditor over the signature of Erik Peters, Provincial Auditor, dated October 27, 1993, to myself as Chair of the standing committee on government agencies:

"Dear Mrs Marland:

"I have received the letter of apology from Mr King of October 27, 1993, in which he states that my letter of October 21 has clarified the situation for your committee.

"In my opinion this would put this matter to rest and would enable all of us to carry on the important work of improving the accountability framework in which the Workers' Compensation Board operates.

"Sincerely,

"Erik Peters."

That letter is cc'd to Brian King, vice-chair of administration, the Workers' Compensation Board.

**Mr Allan K. McLean (Simcoe East):** Madam Chair, after we've read these two letters and seen where they've come from, I would think it would be appropriate that we ask Mr King to come before this committee to explain.



He says he apologizes, but I would like to hear from him the details of the apology. Due to the letter that we got from the auditor that was addressed to you on October 21, I would like Mr King to come before this committee so we could ask him some questions.

**Mr Mahoney:** I certainly concur with that. It's obvious to me that there was some last-minute scrambling to get King to back off and apologize because of the embarrassment that occurred as a result of question period yesterday. I'd like Mr King to clarify what he's saying. He says, "I apologize for any misunderstanding." When we have to change something that we've done in our profession, we must withdraw the remarks. Is Mr King withdrawing these remarks? Is he saying he was totally out of order?

I was in the committee when we questioned Mr King about his statements. As a matter of fact, the statement in his letter on page A-234 of the September 15 Hansard wherein Mr King says, "Do I consider the report of the Provincial Auditor rhetoric?" I believe was in response to a question I asked him, because he had earlier used the word "rhetoric" in referring to Mr Peters's report.

I don't know how you sit in a public committee and make comments that literally castigate someone of the significance of the Provincial Auditor. One of the problems here is that we have a Provincial Auditor who is functioning more along the line of what we've seen in Ottawa with the auditors, where they are extremely critical on an ongoing basis and not just once in a while. I think that's healthy. Regardless of who is in power in the province of Ontario, the Provincial Auditor, as I see it, is a watchdog the public should have some confidence in, and a civil servant, a political appointee, is just totally out of line in making these kinds of comments. I don't know how he just wants to wipe the slate clean: "Forget it, it didn't happen. Gosh, golly, well, I'm really sorry." He doesn't even say that. "I apologize." He's apologizing for the misunderstandings about the objectivity.

What he should be saying is, "I totally apologize for what I said. It was wrong, I withdraw it and I seek your indulgence and the indulgence of the government and the indulgence of the opposition and the indulgence of the people of the province of Ontario," not, "I apologize for any misunderstandings." You don't misunderstand what Brian King said. What he said is that the Provincial Auditor gave subjective opinions, when we all know that it's the responsibility of the Provincial Auditor to be objective. There's no misunderstanding; it's right there in black and white in print.

In essence, by not answering the questions, by rhetorically saying, "Do I consider the report of the Provincial Auditor rhetoric?" he doesn't answer that. He asks himself a rhetorical question and then he goes on with his experience, 20 years with auditors, the relationship between managers and auditors, giving everybody his somewhat high and mighty opinion about the role of Mr Peters, so he doesn't even answer the question about whether or not he considers it rhetoric.

I don't think this supposed letter of apology is, frankly, either acceptable or strong enough. It doesn't go into all the details. We have from Mr Peters a three-page letter

outlining all the concerns, being very detailed, going through the statements in Hansard. There are no misunderstandings. Mr King has clearly called into question the credibility of the Provincial Auditor in his report.

1020

This government shut the Provincial Auditor down with the report he did on the new building that's under construction at Simcoe Place. The auditor got a legal opinion—you know, there's another thing that isn't even addressed in here. Mr King said he asked the auditor on two separate occasions to provide him with a copy of the legal opinion that the auditor got and used to arrive at his decision, wherein he stated that the board was in violation of the section in its act that requires it to go to cabinet to get approval for real estate acquisition or construction or anything of that nature. He made it very clear in the committee hearings that he asked to get a copy of that legal opinion. Mr Peters has told me that that's not true, that Mr King did not ask, that Mr King had a member of his staff contact the auditor, at which time the auditor said that under his act, under which I assume he must operate, he is not allowed to share working papers with anybody, with members of the Legislature, with Mr King, with Mr Di Santo. He is not allowed to share those working papers.

The legal opinion he received in arriving at his decision, which he put in the report, was part of his working papers. He made it very clear. Mr King knew that and, in my opinion, he misled the committee when he said he had personally asked Mr Peters for a copy of the legal opinion. He had been told that that was unavailable, that due to legislation the auditor is not allowed to share the working papers he uses to arrive at his reports.

The auditor is supposed to be independent of government influence, independent of agency influence, independent of any influence. It's his job to analyse what's going on in the government, regardless, as I said, of who is in office. I think that for a politically appointed civil servant to come out and say the things Mr King said in that legislative hearing that I was on during the summer and that a number of the members opposite were on just cannot be whitewashed by saying he apologizes for the misunderstandings.

He doesn't apologize for what he said. He doesn't apologize for what amounted to a virtual attack on the Provincial Auditor's integrity. He just apologizes for any misunderstandings that members of the Legislature might have arrived at or that Mr Peters might have arrived at.

I can see it's quite clear that there have been some phone lines burning up between Bob Rae's office and Mr King, telling him that he'd better get his act in order and he'd better back off. Well, he hasn't backed off nearly far enough, and I think Mr King not only owes Mr Peters a personal apology for his attacks on his credibility but owes this committee and the Legislature an apology for the types of things he's said about our independent auditor.

I would certainly concur that at the very least Mr King should be asked to come before this committee and we should go through these statements in some detail, not only because we want it clear that we're looking for an



outright apology, but we want to understand that Mr King understands that it's totally inappropriate for him to be attacking the auditor in the way he's done.

I don't know if you need a motion of this committee, but if you do I would be more than prepared to either second or put the motion to ask Mr King to come before this committee at the earliest possible date. Frankly, I think Mr Di Santo should be with him. Mr Di Santo's supposed to be his boss, and ultimately he is the one who is responsible for the things that are done and said at the Workers' Compensation Board. Some of us have already suggested that Mr Di Santo should resign over a number of issues. I still hold that feeling, but in this case he's the one ultimately we hold accountable, in the same way that when a member of the government messes up it is the Premier who is ultimately held accountable for that member, whether it's a member of cabinet or whether it's a member of the back benches.

I know you want me to speed up because you'd like to bury this thing. You'd like to just shove it in a drawer and pretend it didn't happen. But let me tell you, the public is not going to be bamboozled by you guys trying to get phony apologies out of somebody like Mr King, so I certainly believe it's appropriate. The government members need not even attend the committee meeting, as far as I'm concerned, because they're just going to come in and roll up some little fluff balls to throw to Mr King. He'd better be here and he'd better be ready to answer the questions and to apologize outright for his remarks; not for misunderstandings, Madam Chair, but for the remarks he made.

**The Chair:** Mr McLean, did your motion include Mr Di Santo, as Mr Mahoney has suggested?

**Mr Waters:** It didn't.

**The Chair:** No, it didn't. I'm asking him if he wants—

**Mr McLean:** Madam Chair, I think it's important enough that Mr King be here, and I would think Mr King would certainly bring the chairman with him.

**The Chair:** I just wanted you to clarify that. Do you want to withdraw your original motion?

**Mr McLean:** I would just add that to it. I'd be pleased to add that both be requested to attend.

**The Chair:** All right. The speaking order is Mr Turnbull, Mr Waters and Mr Marchese.

**Mr David Turnbull (York Mills):** The fundamental question that is raised here is the fact that a committee of the Legislature has been misled by a senior appointee of the Premier. This is somebody who was appointed by the Premier in full knowledge that he had a long history in these types of situations and, to the best of my knowledge, was dismissed from the Workers' Compensation Board of Manitoba.

There can be no excuse for somebody who, coming to a committee with his length of experience in this field, would not know what the key questions were. That being the case, he came forward and made absolutely misleading statements. This is somebody who is non-elected, and we must hold the government responsible for this. The only acceptable solution is the dismissal of somebody

who comes before committee and misleads it.

For example, he made statements to the effect that the Provincial Auditor was aware that numbered company 799 would be the owner of Simcoe Place. The Provincial Auditor very, very clearly lays out in his letter of October 21 that it is absolutely clear that was not the case and could not have been the case, in view of when the final decisions were made.

There are so many factual errors where it wasn't a slip of the tongue; it was quite clearly an effort to mislead the committee. We have seen that, in previous efforts by other committees in the Legislature to get to the bottom of this mess at WCB, the government has no stomach for this. They don't want these problems aired. We asked for a complete review of the circumstances leading to the signing of the agreements to build Simcoe Place, this \$180-million palace to the WCB, and in fact the government managed to change in that committee the motion so it is only to be reviewed in three years' time, conveniently after this government's time has expired.

It's not acceptable. We have the chief spokesman for the WCB coming before a committee of the Legislature and flagrantly misleading a committee. When we get a letter such as this this morning, where he says he apologizes for any misunderstanding—this is not a misunderstanding; this is misleading a committee as to factual evidence which we should use in assessing the conduct of the WCB.

1030

Further, Mr King has made allegations that the Provincial Auditor was using subjective judgement. The Provincial Auditor has categorically said that is not the case. Mr King has called into question the validity of the Provincial Auditor's comments. The Provincial Auditor's function is a very important function in terms of protecting the taxpayer. Ultimately, we are all charged with that responsibility. We are here on the front line to protect the taxpayer, but ultimately, we have to have some completely neutral source who is not bound up in party politics in any way, who will make some objective decisions on what is being done no matter which party is in power.

This Provincial Auditor has in rafts come forward with instances of where Mr King misled a committee on information that either he should have known or he did know. If he should have known and he didn't know it, you have to question his ability to discharge the job that he has. If he did know it and he came forward and simply misled this committee, then there's a serious problem too. Either way, he should be forced out of his job. We note that he was removed from his job in Manitoba, and we have to have a more thorough review of this.

We have an agency of government that is spinning out of control. There is a potential liability in excess of \$12 billion that may be added to the province's debt, which will have the most dire implications in so far as international lenders are concerned, because we are living in a sea of debt. By the provincial Finance minister's own words in this year's budget, Ontario is now the largest debtor in the world after sovereign nations. We saw a newspaper article some two weeks ago which put Ontario as one of the largest borrowers in the world, ahead of the



Canadian federal government. The implications for the cost of borrowing and the ability to borrow to maintain the debt level we have, without any further debt, is called seriously into question when you consider the out-of-control situation at the WCB, where the debt is at least \$12 billion, which must be added to the provincial debt to truly arrive at the situation we have in this province.

We have one of the most senior officials of that agency coming before a committee—I notice that Mr Waters is smiling about this.

**Mr Waters:** Was it a smile?

**Mr Turnbull:** Before you were smiling, Mr Waters.

One of the most serious allegations that could be made against a non-elected official, a senior appointee of Bob Rae, is that he has come before a committee and misled that committee. We cannot slough it off with simply a letter saying that he apologizes for any misunderstanding. This is not a misunderstanding; this is flagrantly misleading a committee of the Legislature. Unless we can get to the truth, you may as well close down all the committees that we have, because they become useless and an unnecessary cost.

I would certainly second the motion from my colleague that Mr King be required to attend before this committee for as much time as it takes to investigate this circumstance so that we can make a recommendation to the Premier. Additionally, I believe it would be appropriate that Mr Di Santo attend, and it may be necessary to recall the Provincial Auditor before this committee, because these are very, very serious allegations.

**The Chair:** Mr Waters, Mr Marchese and then Mr Curling.

**Mr Waters:** First off, the smile, sir, was enjoying you playing to the audience that we have today.

**Mr Turnbull:** What do you mean “playing”? This is the province’s money that you’re squandering.

**The Chair:** Excuse me, Mr Waters has the floor.

*Interjections.*

**Mr Waters:** Secondly, I would like to refer back to the October 21 letter to the Chair from the auditor.

**The Chair:** Excuse me. I think we’re all adults, and if you wish to speak, just indicate, and I will put you down on the list. Ms Carter, did you wish to speak, because you were interjecting. Do you want to speak? All right. Mr Waters.

**Mr Waters:** I refer back to the October 21 letter to the Chair. The third paragraph on the first page says, “Rather than spending time to set the record straight, we would have preferred to assist Mr King, the WCB and the Ministry of Labour to improve the accountability framework within which the WCB operates.”—and I think this is very important—“We recommended those improvements and note that action is being taken....”

Then I go to today’s letter from the auditor, and I read his last paragraph over again, “In my opinion this would put this matter to rest and would enable all of us to carry on the important work of improving the accountability framework in which the Workers’ Compensation Board operates.”

The two go together, I think. They continue a frame of mind and a statement. But on the topic, I would support having Mr King come back to discuss what was in the October 21 letter. I don’t want him to come back and do another week of hearings on the whole thing. We have a problem that I think is very valid. The auditor has raised some points. I think that Mr King should answer for those. Even with the auditor’s letter of today, I would support my colleagues across on having Mr King in. In fact, I would even suggest, if at all possible, that we bump—I think November 17 is when we were to start the Ontario Food Terminal—that we bump that back a week so we can hear from Mr King would be my suggestion.

**The Chair:** Thank you, Mr Waters. Mr Marchese.

**Mr Marchese:** I disagree with that statement, and I have to say quite frankly that I am incensed with the opposition members’ arguments, strongly incensed by their arguments, and I will be unequivocally opposing the motion that is before us. I have to congratulate Mr Mahoney for his continued rare ability to mythologize issues, as he does so well. He needs to be congratulated for that.

But in my view, we don’t need to hear Mr King again. What we have here is a letter written by Mr Peters where he outlines the different problems that are stated having to do with opinions. Mr Turnbull qualifies this or characterizes this as they’re not misunderstandings but they’re deliberately misleading the members. That’s his characterization of this issue. I understand that, because he has a good ability to hyperbolize the issues as well.

But Mr Peters says: “Rather than spending time to set the record straight, we would have preferred to assist Mr King, the WCB and the Ministry of Labour to improve the accountability framework within which the WCB operates. We recommended those improvements and note that action is being taken on them. We would like to take whatever action is necessary to ensure that the statements made by Mr King to your committee and cited below do not impair the current work....”

So Mr Peters outlines them, and I think he does a fine job of that. As an example of what we’re talking about, on the next page, which is not numbered, on the issue of a legal opinion:

“Mr King’s allegation that he tried to get me (the Provincial Auditor) to show him my legal opinion, but I wouldn’t, is not factually correct. If he had contacted me directly, which he did not, I would have advised him that under the Audit Act, according to legal advice, I am precluded from providing the legal opinion because it forms part of the audit working papers. I did so advise Mr Sam Van Clieaf of the WCB, who contacted me with the request to send him a copy of the legal opinion we had received. This message was not properly related to the committee by Mr King.”

1040

This is the kind of thing we’re talking about. Mr Mahoney, however, says again, as he does so well to exaggerate the issue—he speaks to this in his own way. But what we have here is a letter which Mr Mahoney, of course, doesn’t like very much, where Mr King gives an apology of what has happened.



**Mr Mahoney:** You don't see that in the report.

**Mr Marchese:** You can say whatever you like after, Mr Mahoney.

"We are currently implementing the recommendations from your Special Report on the New Headquarters for the Workers' Compensation Board. I would like to meet with you as soon as possible to bring you up to date on our progress and to obtain your assistance in making further improvements to the accountability framework." And he says, "I apologize for any misunderstandings about the objectivity and factual content of your report."

What more does this man need to do? Well, what Mr Mahoney wants him to do. What he's saying is: "Your apology is not good enough. What in fact we want you to do, if not grovel, and if not to flagellate you, is that we want real penance from you. We want to have you admit that this is not just a misunderstanding, that you've been misleading the public, the MPPs and everybody else."

I think what we have here is sufficient. By way of what Mr Peters has outlined as a problem, we have then a letter by Mr King, who says, "We apologize for misunderstandings," and says they're prepared—in fact, they are working on the recommendations that he was making. In my view, I don't want to satisfy the killer instincts of both Mr Mahoney and Mr Turnbull and others with an issue that I believe has been properly dealt with, so I will be opposing that motion.

**Mr Alvin Curling (Scarborough North):** We in this committee have a job to do. We hope we can do it effectively and efficiently. It seems to me the government side has more shovels on its side to cover up whatever it would like to cover up, and in the meantime—

**Mr Waters:** You didn't hear me.

**Mr Curling:** I hear you. Your shovel's a little bit smaller than Mr Marchese's shovel.

**Mr Mahoney:** He's got a backhoe.

**Mr Curling:** Yes. As my colleague said, he has a backhoe to shovel, to cover up all this.

You must understand that regardless of your kind of demonstration and acting, we will continue to do the job that must be done by this committee. Actually, as we walked through the WCB, it wasn't an exercise for our physique; it was an exercise to understand the WCB in its complete form itself. We want the place to be accountable. The place where it comes more to be accountable to is in this committee. If you want to think that after making these accusations and actually misleading the committee, misleading the House, because that's where the Hansard and the accountability will come about, and then say, "I'm sorry"—that's not good enough.

In our job, many people have said, "I'm sorry," just like your Premier at times saying "I'm sorry" about things doesn't make things right. I think what we should be doing is having the WCB here to go through in detail. We have an auditor, maybe for the first time, who decided they will not be shovelled and covered up by the government side, and what we want to do is to bring them here to be accountable, to explain these things. I think not only we but the public have a right to know

why Mr King—to go through it all those details to talk about where the auditor was wrong.

As a matter of fact, to say a situation like, "I called him, I tried to contact him and he did not even respond"—outright to say that it was a misunderstanding is easy. As a matter of fact, it goes beyond that. The auditor stated that, "If I was called and asked even that same question, my response would be, by the auditor's act, that I could not respond in the way that he would have liked me to respond."

But I say, then, I endorse fully and I agree fully with Mr Mahoney in his statement to say that we must follow this through to the ultimate end. Mr Marchese really doesn't surprise me. He's consistent in the way, usually, to play this partisan role, to not realize to get to the issue and to say that my dear colleague—

**Mr Marchese:** Alvin, you're not serious.

**Mr Curling:** No, because the fact is—let me say you're not playing partisan. Let me say that you're playing this government protective role. We have the WCB, which somehow is one of the most questionable institutions that we have today; the people are wondering what is happening to it. Then we are finding at the core of it, with some of the mismanagement and the kinds of things that are happening there, that we must bring it to be accountable.

I endorse of course my colleague Mr McLean and the motion, seconded by my colleague Mr Mahoney, that Mr King be brought here, and not what Mr Waters says, to limit him to speak on certain issues. We have to get to the root of this, what is causing this problem.

Ever since the NDP lost in Manitoba, we have a whole swarm of Manitobans here who are not understanding Ontario, that we are fully accountable in Ontario regardless of what party is in power. We know that. We feel that when they come here, they must be accountable. Of course Mr King may be quite capable of doing his job, but in this time here, we have somehow to be more accountable to the people of Ontario; not to Bob Rae and not to Mr Marchese or Mr Waters, but to the people of Ontario.

**The Chair:** There is no need to second motions in committee.

**Ms Jenny Carter (Peterborough):** I really feel that I have to say something about the rhetoric we've been listening to this morning. I hope Mr Mahoney would now admit that the letters we were waiting for were material and not just games-playing. Of course, he did take up that five minutes, which solved the problem.

I don't understand Mr Turnbull's tirade on the question of debt either. When you have an institution which is taking in large amounts of revenue, paying money out, needing to invest money and needing a large building, I think it's perfectly normal for an institution like that to see it as sensible to own its own building rather than paying rent for years and years.

Certainly, most people in their private lives would make that decision. I don't see that we're looking at a situation here that's very different from that. I don't see this adding to the public debt. I think when some of us



went around the existing WCB building, we did see that there were problems with it.

It seems to me that the two letters we've got here are an excellent match, as has been pointed out. They do give a basis on which these two men can solve their differences. I'm not quite sure why this committee would want to prolong this and spend more public time and money on having extra hearings.

I'm quite sure that Mr King could defend himself if he does come before the committee. I must say the allegations are not what I had been led to expect. Now we see them in black and white, maybe there were grounds for an apology on what you might call personal grounds, but I don't see anything that materially affects the public interest. If you really feel very strongly that we should have Mr King in front of this committee, I would not go against that, but I don't see the necessity for it.

**Mr Mahoney:** It's interesting. Mr King is not a stupid man. I've talked with him one on one on several occasions. In fact we met at the airport in Windsor, had some time together and talked about some of the concerns. I consider him to have control of his wits and know what he's doing and know what he's saying. That's what causes the concern. To Mr Marchese and others, I don't think that I or anyone else over here is exaggerating the problem.

Let me just back up. When the fraud first came out, members will recall there was an outcry and there was some concern that there was somewhere between \$150 million and \$500 million in fraud, whatever. At the time, I expressed a lot of concerns about the competency of Mr Di Santo, and I've done that as well on other occasions. I did not do that about Mr King; in fact quite the contrary. I said in a press interview that it appeared to me that Mr King was doing his job and was clearly attempting to get at the fraud situation, and I applauded his efforts in that regard. So this is not some kind of witchhunt to nail Mr King down. If this is exaggerating the situation, then I don't know what the members would like.

The letter that Mr King has written to Eric Peters says, "I apologize for any misunderstandings." It doesn't say, "I apologize for what I said." It doesn't say, "I apologize for accusing you of misinformation or accusing you of subjective opinions."

1050

If it was an outright apology, then I think members in the opposition would be required to accept that, particularly if it was accepted by Mr Peters and the government. But that's not what this is. I don't know how—it's not exaggerating—you could interpret that in any other way. He's simply apologizing for misunderstandings that he says were misunderstandings. I don't misunderstand this document at all. He has accused the auditor of subjective opinions. He has gone on and accused him, made accusations that the auditor did certain things that he just absolutely did not do.

The legal opinion that Mr King referred to in committee—now, it's very important here. I don't think the members opposite understand the significance of a

witness appearing in front of a legislative committee when everything the witness and the members say is recorded in Hansard.

This is not just a conversation in the hall. This is not, Mrs Carter, a misunderstanding between two men, as you put it, who can sort out their differences. This is a strong challenge by the administrative head, appointed by the Premier, of a government agency; a strong challenge to the Provincial Auditor. This is not just some misunderstanding that Mr King would wish to have go away.

If we cannot protect the integrity of the legislative committee process—it's one thing to have a member of the public come in and make an accusation or do something of that nature. They're not on the public payroll. They're not appointed at the pleasure of the Premier. It's one thing for that to happen, but it's totally another thing—and I know Mr King to be an intelligent man. I think he has probably got his head under his desk right now hoping this thing would go away and trying to figure out a way to get out of it.

He wasn't prodded into some antagonistic position to make comments about the auditor. Is it the government members' position that opposition members don't have a right to ask questions about a \$180-million expenditure? You keep referring back to that building. That building's history. It's going up. I don't think the actual construction of the building is even the issue any more. The issue is how the Workers' Compensation Board handled it.

Mr King has admitted he came in at the end of the process. He even says here he went out and got a third legal opinion to satisfy the board members. The auditor points out that he got it verbally in January 1993 and in writing in May 1993. The board of directors made their decision in April 1991.

Two years after the decision is made, Mr King goes in to seek a third legal opinion on his own, because why? Maybe he suspects there's a problem. Why else would he seek a third legal opinion? There were two legal opinions on the record that the board had to make their decision. Mr King comes in two years after that decision and goes out and seeks a third legal opinion to try to cover someone's behind on this whole thing.

This thing stinks from beginning to end. If Mr King had come in to our committee and, under pressure of questions by committee members, simply said he understood the auditor's position, he respected his position, he knew the auditor was an honourable man and provided objective opinions; however, the board has acted in the following way. If he had said, "We believe we acted appropriately and we want to meet with the auditor," as he's now saying, "We want to obtain your assistance in making further improvements to the accountability framework within which the WCB operates."

All of us have said things in our lives that we'd like to go away, but when you're in this job, what you say is being recorded right over there and you'd better know what you're saying and you'd better be responsible for what you're saying because just wiping a tear away and saying, "Sorry, you misunderstood," is not acceptable.

I again reiterate, nobody misunderstands. In fact I think



Mr King's supposed letter of apology is worded very carefully wherein he apologizes for misunderstandings as opposed to apologizing for his actions. That's what we say, and I say to Mr Marchese, that's not exaggerating anything. We want Mr King to apologize for his actions and his words. My colleague in the Conservative Party is calling for his resignation. At this stage I'm not doing that.

It's not a matter of grovelling. You're accountable. If you say something and it's proven to be factually incorrect—you see, it's proven that what Mr King said is factually incorrect. I don't understand why the government doesn't haul this guy up and say: "You were factually incorrect. You misled the committee."

If he did it out of earnestness or if he simply made a mistake, I'm willing to look at that as a reasonable position, but that isn't what he's saying. He says: "I'm sorry you misunderstood what I said. Let's get on and try to work together." Well, I don't know how they can work together. How can we believe Mr King if he's not willing to (a) apologize for his actions and his words and (b) retract them and put a correction on the record? How can we believe Mr King when he comes before us, supposedly as a professional witness, in the future?

I say, with due respect to the members of the government, that you cannot say this is an exaggeration when the auditor says in the final aspects of his letter, in the closing of his letter, referring to a passage, A-231, Hansard, September 15, of Mr King, "This passage contains a number of statements which are not factually correct."

That is a very, very serious allegation for a Provincial Auditor to make about a public servant in this province, and I for one will not tolerate this thing being swept under the rug, a little pat on the back to Mr King, you know: "Have a nice day. You and Mr Peters can meet and have a beer somewhere and solve your problems and your differences." This is not a difference between Erik Peters and Mr King. This is a difference between those of us who are responsible to guard the public's confidence and a public servant. It's absolutely inappropriate.

The very least the government members could do would be to support a motion that's on the floor to have Mr King and Mr Di Santo appear. It's not up to you to protect them. They're big boys, they can take the heat, and Mr King knows that.

If he's prepared to sit here and answer our questions and provide a full withdrawal of any factually incorrect statements that he made and an apology to the committee, as well as an apology to Mr Peters, then I would be willing to accept that. Failing that, I would join in the call for his resignation that my colleague has put forward.

**Mr Turnbull:** The answers we got from my colleagues on the other side, from the NDP—I think I understand why they're doing this, but I want to separate out. There are two issues at stake here. One of the issues is the question of the problems at the WCB, but let's set that aside for the moment. The other question we're debating is the fact that the senior official of the WCB, Mr King, came before this committee and misled the committee.

As I said before, you can only conclude, with somebody of this man's experience in this field, that he either was totally unaware of facts that he absolutely should have been aware of, in which case there's absolutely no excuse that he, in his position as the vice-president of administration of WCB, didn't know what he was saying, or he deliberately misled this committee.

1100

This issue of misleading a committee and countering what the Provincial Auditor had said—we're not talking about shades of opinion where we say, "Well, I don't quite agree with that," and there's some nuance. This is not a nuance. When you're talking about some of the facts that the Provincial Auditor raised here where Mr King absolutely misled the committee, you have to seriously question the following: Why do we have Hansard of committees? I think you all know that the reason we have Hansard of the committees is because that becomes a permanent record of what an official tells us as to the activities that he or she has observed. That permanent record can only be expunged by a clear statement from the person who issued them in the first place that they were absolutely wrong.

You also have to ask yourself why he would make the statements that he did which either demonstrated his complete ignorance of issues that he should have been aware of, or that he did know and he gave us the wrong information. It became abundantly clear from the auditor's correspondence and the responses of Mr King that Mr King, in fact, knew that the decision of WCB to go ahead with Simcoe Place and the third legal opinion, the dates just don't jell. And if the dates don't jell, we have to know the reason why.

The construction of this facility stinks, but as I said before, that is a separate issue. The issue that we're debating now is the circumstances as to why a senior appointee of Bob Rae came before committee and misled us.

The letter which has been sent today, both letters—reading from Mr King's letter, he says, "I apologize for any misunderstanding about the objectivity and factual content of your report and actions which have arisen as a consequence of my presentation to the committee." He doesn't expunge the factual information that he said he was putting forward and how the Provincial Auditor refutes that.

I would remind the members of the government that just a few years ago on the east coast of Canada we had the spectre of one party winning all of the seats in the provincial Legislature. When that happens, you don't have any opposition members to do what we're doing here, and that is bring forward these issues for scrutiny. It is a very, very dangerous precedent and I think that when you look at the volatility of the electorate today, they are somewhat disenchanted with the stories that they get fed by politicians and they hold the position of the Provincial Auditor to be of some importance, and the importance is that the Provincial Auditor has the right to look at a lot of documents that most other people can't.

I would put on the record that when MPPs of opposition parties want to get certain documents, often we have



to go the route of freedom of information, and when we make the freedom of information requests we are charged for that cost that we incur. That has seriously impeded the ability of opposition parties to get the information that, I will remind you, the NDP always said was so important when it was in opposition. What has happened to your government? What has happened that you would sooner bury these issues and try and narrow it to the fact of saying, "Well, why did he say it?" and pat him on the head and say, "Okay, you're fine"?

We must expect that anybody who is on the public payroll is honest when they come before committees. They're not having casual conversation in the halls; they are putting on record factual information.

We have concrete evidence of the fact that Mr King misled us. I point again to the fact that he spoke about the fact that the 799 Ontario numbered company was known to be the company that would hold the investment in Simcoe Place. The Provincial Auditor is saying that's absolutely incorrect. I'll just read that passage of his letter.

"This passage contains a number of statements which are not factually correct:

"(1) The establishment of numbered companies had not been specifically audited by the OPA. The audit covered, among all investments, those held by numbered companies. However, at the time of the audit, the numbered company had no investments in Simcoe Place."

That flies absolutely in the face of what Mr King gave us in this committee. That isn't some subjective judgement; that isn't a difference of opinion; it's the fact that we're being told the wrong information. Anybody who goes through this letter in detail will recognize that there is factually wrong information that the committee is being given. If a committee is not going to expect that it gets absolute truth from provincially employed appointees of the government, we really have to seriously question why we will have committees. Also, you have to question the role of the Provincial Auditor.

The auditor is neutral; he doesn't belong to any party. That's the way it should be, so that any party, no matter who it is, will be brought to account for anything they are doing which, in the estimation of somebody who has the proper training, does not follow a reasonable procedure. That is the issue.

We have two issues: (1) We have the question of the conduct of the WCB, but that has been closed down to a great extent by the government in other committees, where you don't want to review the construction of that building until way after the fact. Here we're talking about the truthfulness of evidence brought by the senior official of the WCB. We were misled. That's why we need him, not just to answer a few narrow questions about the letter which was written by the Provincial Auditor, but to open up the whole field and find out exactly what is going on in the WCB.

**Mr Waters:** I think what I would like to say at this point is that we've had a lot of discussion and, before I change my mind, because I'm rapidly joining Mr Marchese, I think we'd better, I would suggest to the

Chair, put the question while indeed the opposition still has an opportunity to win this vote.

**The Chair:** Okay. The question is being put and I'll ask the clerk to read the motion.

**Clerk of the Committee (Ms Lynn Mellor):** Mr McLean moved that Mr King and Mr Di Santo be asked to appear before the committee.

**Mr McLean:** I just want to clarify that would be on November 17, because it has been discussed with regard to the date and I would like to have that date included.

**The Chair:** There are a couple of complications. I think if we could vote on the motion and then discuss the date, it might be more appropriate.

**Mr McLean:** That'll be fine.

**The Chair:** Okay. All in favour of that motion?

**Mr Waters:** Another clarification on this motion, Madam Chair, because—

**The Chair:** You put the question, Mr Waters.

*Interjection.*

**The Chair:** Okay, if it's for clarification on the motion.

**Mr Waters:** All of a sudden we're into Mr Di Santo as well?

**Mr Curling:** That was the motion.

**Mr Waters:** I thought the original motion was that—

**The Chair:** Mr McLean, on the record, withdrew the motion and added Mr Di Santo.

**Mr Waters:** Because the issue is Mr King's testimony, not Odoardo's.

**Mr McLean:** But I had anticipated that Mr Di Santo would certainly want to be here to back up his—

**The Chair:** The motion that's on the floor does include both names. All in favour of that motion? Opposed, if any? That motion is carried.

I'll tell you what the schedule is. Next week, of course, the House isn't sitting, and the following week—

**Mr McLean:** Yes, it is.

**The Chair:** I'm sorry. Next Wednesday we have scheduled three appointments for review before the committee. We did select four. One of those is not available next week; that's why we're down to three for next week. This person who's not available, by the way, is Rosemarie Landry, the intended appointee as a member of the Province of Ontario Council for the Arts, and she was selected by the official opposition. She is available on the 17th. If we don't have her on the 17th, the time expires for the opportunity to review her.

Also on the 17th we did have scheduled the beginning of the review of the Ontario Food Terminal. Mr Waters, that was your selection, the Ontario Food Terminal.

**Mr Waters:** And I've already stated today that I have no problem with delaying that so we can deal with the issue at hand.

**The Chair:** All right. Then—

**Mr Curling:** Also, on my motion, I was the one who put forward Ms Landry. I have no compulsion to see her on the 17th, if we could set that down and then use it.



**The Chair:** You see, we can't set it down because the time for reviewing her appointment would then expire, if we don't see her on the 17th.

**Mr Curling:** I could withdraw it, I said. I could withdraw it.

**The Chair:** Is there a concurrence of the committee that the review of Ms Landry be withdrawn? Agreed? That's unanimous. I think we should have a motion to withdraw reviewing Ms Rosemarie Landry.

**Mr Curling:** I so move.

**The Chair:** Thank you. That is moved by Mr Curling. All in favour of that motion? That's carried.

We'd need a motion to set the date for the motion we've already passed for the WCB chair and vice-chair to come before the committee on the 17th.

**Mr Waters:** Madam Chair, I move the motion that we indeed do the WCB on the 17th and step down the food terminal till the next week.

**The Chair:** Any discussion on that motion? All in favour of that motion? Opposed, if any? That motion is carried.

That's everything. Thank you for your attendance at the committee this morning. This committee is adjourned.

The committee adjourned at 1114.











## CONTENTS

Wednesday 27 October 1993

<b>Workers' Compensation Board</b> .....	A-281
--	-------

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)  
Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)  
Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)  
Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Substitutions present/ Membres remplaçants présents:**

Cooper, Mike (Kitchener-Wilmot ND) for Mr Mammoliti  
Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Bradley  
Turnbull, David (York Mills PC) for Mrs Witmer

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

CA20A1  
XC19  
-652



A-18

A-18

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature



## Official Report of Debates (Hansard)

Wednesday 3 November 1993

## Journal des débats (Hansard)

Mercredi 3 novembre 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

Intended appointments

Nominations prévues

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 3 November 1993

The committee met at 1014 in room 228.

## INTENDED APPOINTMENTS

**The Chair (Mrs Margaret Marland):** Good morning. I would like to call this meeting to order of the standing committee on government agencies.

JOHN ARTHUR GELLER

Review of intended appointment, selected by the government party: John Arthur Geller, intended appointee as member and vice-chair, Ontario Securities Commission.

**The Chair:** This morning we are going to review three intended appointments and the first is Mr John Arthur Geller, QC. I would like to welcome you to come and take a seat, Mr Geller.

**Mr John Arthur Geller:** Thank you, Madam Chair.

**The Chair:** We usually proceed in rotation through the three caucuses. If you would like to make a brief opening statement, you may, and if not, we can just start with the questions.

**Mr Geller:** Why don't you start with the questions.

**The Chair:** All right, thank you. It's a selection by the government party.

**Mr Robert Frankford (Scarborough East):** Good morning. I am interested to read your résumé. You've been in this area for your entire career, presumably.

**Mr Geller:** I've practised corporate and securities laws ever since I got called to the bar in 1955, so yes, I've been at it quite a while.

**Mr Frankford:** And you're obviously familiar with the commission.

**Mr Geller:** I've had dealings with the commission, both on the corporate finance side and in commission hearings, for a good many years.

**Mr Frankford:** Do you see this as an interesting way of moving your career from—

**Mr Geller:** Yes, as some people, I think, like to go to the bench, I've never particularly wanted to be a judge, and I think this is an area where I've always been interested. As I tell my friends when they ask me why I went, after spending a number of years trying to work my way around policies, it would be nice to be involved in the making of policies and the administration of the securities law at the end of my career.

**Mr Frankford:** Have you given any thought to what policies you would particularly like to be pushing?

**Mr Geller:** Yes, with so much in the securities law area, policies are really responses to what's happening out in the marketplace, so it's awfully hard to predict what are going to be the crucial areas in the coming years. I've been particularly interested for a good many years in the area which is covered by the current policy, 9.1, which is the takeover bid area, the related parties area, the transactions area, which I think still needs

working on. I think it's, in our economy, a rather crucial area, so that's an area I think I would like to pay a fair amount of attention to.

**Mr Frankford:** Something you worked on, I think it's on your résumé, was the Canadian Tire?

**Mr Geller:** Yes, I guess the most recent hearings that I've participated in before the commission is I represented institutional investors in the Canadian Tire hearing and in the Instinet hearing, which was a hearing with respect to the stock exchange and the question of allowing a computer-based system on to the stock exchange. Those are hearings that I've participated in relatively recently.

**Mr Frankford:** Are these going to raise policy issues that you'd like to deal with?

**Mr Geller:** The reason I got involved in Canadian Tire in the first place was I guess I've been known as being interested in the takeover area, and when some institutional investors were looking for somebody to represent them, they were referred to me by another law firm.

**Mr Frankford:** If I recall, Canadian Tire raised questions about different classes of shareholders.

**Mr Geller:** That's correct. There was what was supposed to be an effective coattail attached to the class A, non-voting shares so that if there was a takeover bid for the voting shares, the non-voting shares would have the benefit of it. Unfortunately, the language of it was somewhat deficient and the securities commission was asked to step in, in the public interest, and prevent the transaction from going ahead, which it did.

**Mr Frankford:** Is this something which is settled, or is this the sort of issue where you feel there's something more that should be done?

**Mr Geller:** It's been moving along, but it's not so much the question of non-voting shares, although I think the last word remains to be said on the question of non-voting shares generally. I think the related party transaction area of the same policy is one which is at the forefront now, and because it's new and the policy will need, I think, considerable refining in the next little while.

**Mr Frankford:** The capital markets are becoming increasingly globalized. Do you think there are things the OSC can or should be doing to ensure that Ontario's capital market remains viable in the global marketplace?

**Mr Geller:** Yes, obviously you're absolutely correct, sir, that the internationalization of markets is proceeding apace, especially with computer-based trading so that it's possible to have trading 24 hours a day in stock that's principally traded in one jurisdiction. Although Ontario's not one of the principal markets, it's a very significant market in the internationalization. I think there'll be more and more need for proper tie-ins in this area, at the same time protecting the capital market here which is not the



strongest, although it is a significant and a strong capital market. That is an area where I think the events will force a lot of attention to be paid in the next few years.

1020

**Mr Frankford:** So in looking ahead, would that need some sort of cooperation or some sort of superbody to link up—

**Mr Geller:** At the moment, as you know, in Canada there is a reasonably effective association of provincial securities commissions which has been acting together to deal with the situation in Canada. Similar organizations have been created internationally, but the more players in any particular thing, obviously, the more difficult it gets to deal with.

I think there is a great desire for international cooperation to stop market-seeking by people to try to find the least effectively regulated market and I think there is a general movement towards similar if not the same sorts of regulation in the marketplace, but there's going to have to be a huge amount of work done to achieve that result. I think this commission has been really in the forefront. For the commission of a relatively smaller jurisdiction in the international scene, it has been remarkably active in recent years in pushing forward internationalization of regulation, I think very usefully.

**Mr Frankford:** In the national picture, should the federal level be playing a greater role in coordination?

**Mr Geller:** I've always been of two minds about that. Philosophically, in some ways, the idea of a national commission appeals to me. One of the great difficulties that's concerned me about that is the legislative time federally seems even more difficult to find than provincially. My experience with trying to get some minor technical amendments to the Canada Business Corporations Act dealt with over the past 10 years has caused me a fair amount of concern about the extent to which there would be sufficient flexibility about that. So, as I said, I don't have a fixed view; I have concerns about both aspects of it.

I think that as long as the provinces move towards greater uniformity and move towards a common method of dealing with matters, which as I understand it is going forward, there will be less impetus for a national scheme. If that doesn't go ahead, obviously there will be more.

**Mr John C. Cleary (Cornwall):** Welcome to the committee. With the experience that you have over a period of many years, do you feel that you have sufficient resources at the commission in order to administer the regulations?

**Mr Geller:** My starting point is, I've been on the outside rather than the inside, so I have really no way of answering that in any definitive manner. I would suspect that the commission, like every other organization I know, could use more resources. The difficulty with the commission is that it is to a very significant extent a reactive body, in the sense of much of what comes before it comes before it by action in the capital markets, and it would always be nice, I guess, to have sufficient staff to be able to cope with that sort of thing.

My impression at the moment—and again, I have not

been on the inside—is that the commission is not starved for funds, that it is operating adequately and has the resources that it needs to deal with the crises, but this, as I say, is an inexperienced view at the moment.

**Mr Cleary:** The other thing that I guess I might like to ask you: Do you feel that the government's wage constraint initiatives will affect the Ontario Securities Commission's ability to attract and to keep the present employees or to keep good employees who have the expertise?

**Mr Geller:** As you understand, the commission, because of the nature of the people it has to employ—to a very significant extent lawyers, accountants, people from the investment banking community—is always competing against salary levels that it has never been able to match. I think the people who go to work for the commission generally do so out of, to some extent, a sense of public duty because, if they were out in the private sector, they would undoubtedly be making more money.

I guess my impression—and again my impression is as an outsider, because I have not yet been in the commission; I've been up in their offices for two days, but that's hardly enough time to really form definitive opinions—is that the people in the commission, like public servants everywhere, have been upset by the social contract, but they are reacting well to it and they're performing their duties and doing what they should be doing.

**Mr Alvin Curling (Scarborough North):** Welcome, Mr Geller, to the committee. Over a couple of years now, people have had some sort of concern about how securities are being handled. It not only seems to be a Canadian concern but also almost an international concern about how securities are being handled. As you said, you're not yet inside but, as an outsider, I'm sure you would have some concerns about how these things are handled and protected; in other words, building the confidence of the people that it could be better handled. There are some uncertainties there, some anxious moments.

Do you think, first, that they should improve the optics or what's going on now in securities and how it is handled? If so, if you do see there should be improvement, how do you see we should go about building up confidence in the public eye again?

**Mr Geller:** Well, sir, let me start off by saying I don't think there is a feeling among people who are practising in this area, among the law firms, the accounting firms, the investment banking, that the control of the securities markets is being badly handled. I think in fact the commission has a great deal of respect, and generally the Canadian securities commissions across the country have a great deal of respect from the people who are dealing with them.

This is not to say that those people wouldn't like improvements. I think in recent years—and I think partly because of the fact that the commission has expanded a good deal in recent years from a staff point of view and partly that its staff is relatively young, there has tended to develop a more adversarial relationship between the commission and the street. I don't blame this entirely on



commission staff. I think the street generally has become more aggressive, lawyers dealing with lawyers and such. It just seems to be part of the times.

One of the things I would like to do up there, to the extent that I can, is to try to mediate that kind of situation, because I think a respect on both sides is extremely important from the point of view of a feeling of comfort that the securities administrators are doing what they should be doing. But beyond that, I would disagree with the statement that there is a concern among those people active in the area about the way securities are being handled.

There is one area that obviously the commission has been concerned with, and that's the question of penny stocks, where a policy was created which was considered necessary to protect the public interest. The judge who heard the matter at first instance—mind you, could have come down either way on the matter—came down against the power of the commission to impose policies in that sort of thing. As you probably know, the minister has set up a task force to attempt to deal with that question but, again, I'm satisfied that in reasonable time some method will be found to deal with that problem.

**Mr Curling:** Mr Geller, I don't want to interrupt you, but while you talk about the commission itself—and you have no concern, you feel it's doing its job in a proper way—I'm talking about the perception of the public wondering if things are being handled properly and building more confidence in the people that, yes, it is.

Of course, those who are within feel quite comfortable that, "Yes, we are doing a good job," but the people outside have been sort of shaken a little bit about how securities have been handled. I don't put a tag on Canada alone, or Ontario. I've seen the nervousness around New York, the United States and here. Do you see that at all, that there is comfort within the people that it is being handled properly, or is there any perception at all?

1030

**Mr Geller:** May I divide that question into two parts to answer it, sir? I'm no expert in values of securities. I think there's a general perception that all markets are overvaluing securities at the moment, and I think there's a concern about that.

The multiples at which stocks are trading at the moment on stock exchanges I think does cause concern, and that's not something the regulators can do anything about. The market price is going to be set by the people who are buying and selling stocks. In that area I think there is a concern, and I think there's a well-based concern, that this may not go on for ever. That will create problems for the administrators but isn't something the administrators can deal with.

To the extent that there is a public concern that the regulators aren't regulating well, I guess that, like everything else, communication is difficult and I'm not sure civil servants, regulators, are always the best communicators of what they're doing.

Beyond the communications, I'm not sure what can be done, in the sense that I think the regulation is taking place about as well as it could reasonably be expected to

take place. So other than better communication, I don't have an answer for you, sir.

**Mr Curling:** Do I have more time?

**The Chair:** You have a minute and a half.

**Mr Curling:** This is a rare moment when the Chair tells you you've got extra time.

Let me pursue that a bit more, because I think I'm getting from you that things are okay within, and while people may have anxious moments about how the stocks and shares are being traded, you feel that it's just lack of effective communication why this is happening. I would like to hear from you if you can tell me if you think there is genuine concern of the public. I can't say forget about the communication, but is there a genuine concern that the public has some anxious moments about how things are being traded, how it's being handled?

**Mr Geller:** I'm afraid I can't answer that, sir, in the sense that the people with whom I deal don't express that concern, but it may well be that there is a widespread feeling. I just don't know the answer to that.

**Mr Curling:** Okay. Thanks then.

**Mr Geller:** Incidentally, on the other part of it, I don't want to give the impression that I think that the commission is the best of all possible worlds and that there aren't internal improvements necessary, both in organization and methods of handling and speeding things up. I don't think anybody's that perfect and I don't think the commission is certainly that perfect. Improvements in operations I think are necessary and will come. I just wanted to give the impression that from the regulatory point of view, I think they're doing a good job.

**Mrs Elizabeth Witmer (Waterloo North):** I'd just like to ask you one question, actually, and it concerns the out-of-province witnesses. As you know, in February 1991 the Ontario Court of Appeal confirmed an Ontario Supreme Court decision that the OSC did not have the power to compel a witness from British Columbia to answer questions, and as a result the OSC has expressed an interest in being given such powers through legislation. Would you comment on the need for such powers?

**Mr Geller:** Yes, thank you, I will. Until such time, if ever, as we get a national security system, there are always going to be lacunae in the operations between the various systems, and that case, the Bennett case, which you're talking about, is a perfect example of it. Neither the BC Securities Commission, which had jurisdiction over the people involved, and the Ontario Securities Commission, the market in which the inside information was used for the trade to take place, could effectively deal with it, British Columbia for a number of reasons, but in Ontario because in these situations the only evidence you're ever going to get as to whether there was in fact insider trading is from the people involved.

There was a phone call. People knew the phone call had been made, but nobody could say what happened in it. Without being able to subpoena those witnesses to give evidence, the commission was essentially powerless because it couldn't make its case, and our court found—again, with respect, I think it could have gone either way on that. It went on the technical basis that it couldn't find



the power in the act, and that effectively stopped a proceeding which I think, in the public interest, should have been held. I think it would have been good, if indeed there was no insider trading, and there may not have been, for the public to know that, and if there had been insider trading, it would have been good for the commission to be able to act on that.

I'm sorry Mr Curling has left, but I think it's that kind of situation, which to the extent that people generally out there in the public do get concerned, it's about that: Why can't something be done? The public will say, "If people in that position traded on the basis of insider knowledge, something should be done about it," and the commission not being able to do something about it would, I think, have caused some concern out there.

Sorry, it's a long answer, but the answer is yes, I think that's badly needed.

**Mrs Witmer:** I thought I heard you say that in the response and I appreciate that. Thank you very much. I have no further questions.

**Ms Jenny Carter (Peterborough):** Do we have any more time?

**The Chair:** No, we don't. Thank you very much, Mr Geller, for appearing before the committee this morning.

HAROLD M. BRATHWAITE

Review of intended appointment, selected by the government party: Harold M. Brathwaite, intended appointee as member, Ontario Institute for Studies in Education.

**The Chair:** I would like to invite our next person for review by the committee, Mr Harold Brathwaite. Welcome, Mr Brathwaite, to the committee this morning. If you wish to make some brief opening comments, you may, or if you like, we may just start with the questions from the committee members.

**Mr Harold M. Brathwaite:** I'd simply like to say that I was approached by the Ontario Public Supervisory Officials' Association as to whether I would let my name stand and I agreed. I didn't know it was going to involve this process, but I think it will be an interesting experience for me.

**The Chair:** All right, thank you. This was a selection by the government party also. Ms Carter and Ms Harrington.

**Ms Carter:** Welcome. You seem to have quite an interesting background in the field of education. I wonder if you could tell us something about it.

**Mr Brathwaite:** I've been in education in Canada for approximately 22 years. I previously have taught in the West Indies and in France for one year. I have been in the high school system. I started off in the private sector, a Catholic school in Don Mills. Then I went to the Halton board, where I worked for 10 years, and I moved from the position of a department head to principal.

I had the opportunity in one of those years when I worked at the board office to work extensively with staff from OISE. We organized a course for our coordinating staff and superintendents run by Ken Leithwood that went for an entire year.

I also have involvement with OISE. At one period in time, when the future of OISE seemed to be in jeopardy in the mid-1980s, J.W. Singleton, who was a former director of the Halton board, did a report and many of us in Halton were involved in writing on behalf of OISE.

I left the Halton board as principal of M.M. Robinson in January 1984 to come to Toronto. I have served in a variety of positions as superintendent for French-language schools, coordinating superintendent for secondary schools and now associate director for—well, I started off as human resources; I now have curriculum and human resources.

**Ms Carter:** Okay, thank you very much.

Now I want to ask you a rather broad question. As we all know, the world's changing very quickly and there are all kinds of pressures which bear on education as well as on other spheres of life. It seems to me that there are pressures for the system to just turn out people for jobs, to have them, as it were, ready to fit into a slot in the world, and business is taking a big interest in education. I think with the NAFTA agreement, if that goes through, the pressures for privatization are going to be even stronger.

I'm just wondering what your philosophical approach is to what education is for and whether we need to stand our ground on some of these issues.

**Mr Brathwaite:** I am a very strong supporter of public education and I believe that we've got to work to preserve public education, make it more efficient, more cost-effective and certainly work hard to gain the confidence of the population as a whole in the graduates we put out.

1040

I believe there's nothing incompatible between our graduating from school young people who can go on to be productive citizens and people who are ready for the workplace, because the reality is that school is one stage of their lives, and they go on from school either to tertiary education or to work. Presumably the type of education one gets and the type of work one eventually has makes a difference in terms of one's lifestyle, where one lives, one's friends and a variety of things.

From my perspective, there's nothing incompatible in working with businesses to ensure that our young people acquire the appropriate skills. In any event, I can tell you, working in a school board, that we cannot afford to acquire all the technology that will be necessary to keep our young people upgraded, so we have no choice but to look for effective ways to work with business.

**Ms Carter:** I just wonder where this leaves what you might call the humanities. Do you feel those play a part in creating a person who can function in the world?

**Mr Brathwaite:** Absolutely. In our own board, we have gone to reorganizing our curriculum into four strands, and the arts is a very critical strand. I keep saying to people that there are ways of teaching math, science and technology through the arts. In fact, in our board there are teachers and there are people who are working to show teachers how to do this. This is an integral part of being a complete human being.



**Ms Carter:** Another point that occurs to me is that I think we often talk about education as though it were a consumer service, as though you can just hand somebody an education and, as long as all the facilities are there, they will get it; whereas—I think there was an article in the *Globe* quite recently making this point—in countries where they maybe spent a bit less but have better outcomes, the emphasis is on the student as the person who has to do the learning.

**Mr Brathwaite:** I very much believe we have to encourage students to take responsibility for their learning as they progress through school. That is part of what the learning should be about, how to take responsibility for one's learning. In fact, we know that our young people will have to continue to do that in order to upgrade their skills. Yes, from my perspective, that's very much a fundamental part of learning.

**Ms Carter:** Thank you. I'll concede to my colleague.

**The Chair:** Five minutes, Ms Harrington.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you for coming. First of all, I'm wondering if you could summarize, in your view, the basic mandate of OISE.

**Mr Brathwaite:** OISE was set up with essentially two directions. One was to do research and to disseminate the findings of that research and to help boards of education, essentially through their field offices in many cases, to implement the findings of that research. It also had the responsibility for offering graduate courses, and I believe it has attempted to do that since 1965.

**Ms Harrington:** At this point, I think the taxpayers, the public in general, are looking at nearly every institution and evaluating, as probably they should. You're now affiliated with the University of Toronto. How would you see your mandate maybe changing, being more effective in the future, or what would be your vision as being part of a management team?

**Mr Brathwaite:** I don't want to be presumptuous or premature to suggest that I have a vision for OISE. I have not even been able to read the last board of directors' report because, as recently as two days ago, I was told it was not yet available; it wasn't printed. The last board of governors' report I've read is 1991.

Very clearly, one has to look at accountability. Very clearly, one has to look at the relevance of the research that's being done to what's actually happening in our education system. Presumably, if OISE is carrying out its mandate, it will help guide and direct many of the things we're doing in schools, so I would imagine that much of the research that's done would have some payoff for schools. At least that is one area I would very much want to see a focus on.

**Ms Harrington:** Would you see the institution working with this Royal Commission on Education?

**Mr Brathwaite:** Absolutely. I think that's vital. Given the fact that perhaps they are the repository of more information about education in Ontario than any other institution, that would be an important component of what they should do, to be providing information to the commission based on factual research.

**Ms Harrington:** I'm a great believer that every

institution has to be evolving and an up-to-date and vital part of a community in our society.

My colleague George Mammoliti, who represents Yorkview and who unfortunately had to leave, has explained to me that he has a concern he wanted to express to you. His riding of Yorkview is also the Jane and Finch area. He's very concerned with his constituents, some of whom are on social assistance. He's also concerned about the proposal for Seneca College to hopefully go into that area, and has asked if you have any ideas about how education could help the community he represents there and whether Seneca College should be a part of that.

**Mr Brathwaite:** I believe a report has been done around this issue, and it was my understanding that there was even a possible site that had been looked at for the location of that particular facility.

There's no doubt in my mind that if that facility were there it would be an asset. Of course, the question of money always comes up, but there is no doubt in my mind that the location within that community would send a very strong message to those young people. It would make them aware that this sort of education was indeed meant for them and that it was indeed accessible. Also, the fact that members of Seneca College would be in the community and be visible would mean they would attempt to adjust the type of offerings they were making to the needs of the community.

There's lots of evidence, certainly south of the border, that where educational institutions have been set up in areas that are underserved or underprivileged they have had a very positive effect on the learning and the aspirations of people who are served by that area.

**Ms Harrington:** That is a personal view, obviously. Is there any way you feel you can influence this further?

**Mr Brathwaite:** As I said earlier, I would want to believe that much of the research that OISE does will be relevant to what's happening in our schools and our communities.

We are all aware that there are some issues in Jane-Finch especially affecting young people, and I would like to believe that OISE would look at what are some of the best practices that have existed in other places and have contributed to success when you move into an underserved or underprivileged area. I would like to believe they would have some say or work collaboratively with the North York board, with Seneca College, in trying to look at the needs and provide programs.

**Mr Curling:** Mr Brathwaite, welcome to the committee. As you said and as has been observed, you come with good credentials. You're going to an organization that I have watched over the years. I'll ask you to comment on two things for me.

One, I look at the dropout rates from the school system, especially among blacks. If you had the answer, I would suggest you don't sit on OISE or anywhere; that we set up an organization and maybe be well paid to find out what causes the dropout rates. I'm saying, then, that I don't think you have a ready answer.

Do you have any insight or comment on why it is in



a province like ours, one of the richest provinces, which if it was a country could rank pretty high with compared to any country, our dropout rates are so high?

**Mr Brathwaite:** Let me start by saying that I think one of the most important things would be for us to get the factual information on where we stand today. The 1986 census suggested that the dropout rate was around 30%-plus. We had research that suggested to the conference board that the dropout rate was around 25%. The most recent Statistics Canada information that came after the 1991 census suggests that it is nearer to 19%.

The reality, though, is that whatever the percentage, we cannot afford, going into the 21st century, to have young people dropping out of schools at this rate; it is not productive. On the other hand, one of the things that's not factored in is the number of young people who drop out and then return to school.

1050

There used to be a time, 30 years ago, when there were reports clearly indicating that only about 45% of young people aged 14 to 18 were in school. Today, we are servicing more like 85% of those young people, so we are providing more young people with better education and they're staying in school longer. But what do we about young blacks and members of other communities who are dropping out? I believe that the school system has got to be more welcoming and it has got to be more responsive. I believe we have to start at a much earlier age providing resources to parents so that they know how to access the system but also be the first teacher to their kids.

I would say that is perhaps one of the most fundamental changes we could make if we are going to make a difference. There is, in many communities, a cycle of poverty and a cycle of limited education which we need to break. The responsibility lies on the part of the school system, in the one area, to be more responsive.

Obviously, places like OISE have a responsibility in that it can do significant research to identify what the problems are as perceived by the client. I think we have done enough studies that we know what some of the problems are; we don't need more studies. What we need are best practices to address the issue. If we can get far more parents feeling that the school system is one they can influence, that they can change—more particularly, rather than a system, individual schools where their kids are at—I believe that would be significant.

I also believe that changing the composition of the workforce in schools would be significant. I can give you an example of my own board, where in our secondary schools 30% of our students are Oriental by background and 10% are black by background. That makes 40% of them who are visible minorities. Only about 12% of our teaching staff are visible minorities. The whole question of access to teachers' colleges, access to information, access to places like OISE are critical issues because those kids need role models in their schools and they need people who understand them or people they would feel empathetic towards. A variety of factors I think would contribute to helping our kids to stay in school longer.

**Mr Curling:** I know you are quite well-versed in this field. Some of your comments I've heard before, from a lot of people. I too have concerns in some of those directions.

For instance, we always say if we just had the role models and other things, we could improve. I'm not quite sure about that. I've used this example quite often, that I have seen other people who are new immigrants who have come here—and I'm using many of the blacks who are new immigrants—and have no role models in the schools and have done exceedingly well. I just wonder, if we have that kind of role model strategy, whether or not that could be an answer, but maybe this is not the place to debate that.

What I'm saying to you is that I'd like to see an individual like you, who is quite outspoken, encourage a debate of this nature: Is it role modelling that will solve it? I go to graduations, and now it's convocation time. I went to one the other day that had maybe about 400 or 500 students graduating in the grade 12 and 13 area and it was appalling to see the low graduating of blacks. But that is another matter, not whether role modelling will assist in any great respect.

I want to move to another topic, though, because as I said, it's unfair for us to debate this.

**Mr Brathwaite:** Could I just comment on that? I think a critical element there is the whole question of teacher expectations. Therefore, I believe that the role modelling or having teachers who understand students or who are empathetic towards them is really critical. I believe that can make a difference.

The whole question too of the expectations that teachers have for certain minority groups that are quite different from those that they have for other minority groups makes a difference.

The whole question of whether or not a minority group perceives itself as a voluntary or an involuntary minority group is also a significant factor.

**Mr Curling:** I have issue to that, but let me move to one other topic, the topic of functional adult illiteracy, which OISE has resisted for years, until I presume it's accepting it now.

We have a great problem in this country, that over 20% of our adults are functionally illiterate. Really, I think it's over the last, I would say, eight or nine years that it's more or less acceptable that we can deal with that. Dr James Draper, for instance, has done a lot of work on adult illiteracy and fought that kind of battle. My concern now is that I have noticed that when we deal with illiteracy or functional illiteracy, we're dealing with teenagers or young people, and I don't think we should be focusing there on illiteracy.

The reason I'm saying that is we do have a broad, expensive system in place to let people be literate. We're talking about functional illiteracy. Do you see that as a concern? Do you see OISE playing a more active role in that area?

**Mr Brathwaite:** Absolutely. I think you know that I come from a board that is very much committed to literacy, and we have for years run programs for adults



for literacy. I think that's absolutely critical. I talked earlier about breaking the cycle of limited education. Obviously, if you have parents who are not literate, that is going to affect the performance of their kids.

From my perspective, it makes good sense. It's a good investment in this country and in this province for us to look at adult literacy. And yes, OISE has to. At least from my perspective and based on my particular background and the areas that I'm responsible for, I would want to see OISE taking a more active role in this area.

**The Chair:** There's only one minute left.

**Mr Cleary:** I guess this is going to have to be brief. What new direction would you like to see your organization take in respect to improving education in Ontario?

The second part of that is, I have my own children, my own grandchildren and their friends who cannot even add without their calculator. I'd just like your comments on that.

**Mr Brathwaite:** I think that is unfortunate if that's the case. I personally believe that one must have the mental functioning capability, and I would be horrified if that were the case for my own kids. I strongly support students acquiring basic skills. That is an absolute must. But we have to go beyond those traditional basic skills, because in fact our young people will be working in a very different world. I am not going to repeat the clichés that we are all familiar with, but I think we know we have to equip our young people in skill areas that hitherto they have not had, particularly our young women.

In my own board, we are looking very significantly at how we introduce math, science and technology so that young girls in elementary schools are exposed to it and have an orientation that is more welcoming, because the socialization in our own community has not encouraged young girls to be involved in math, science and technology. I believe that is perhaps one of the most fundamental areas where we should be making a change and where OISE, with its cognitive research directions and a whole host of research that it does around learning, ought to be making a difference.

**Mrs Witmer:** It's a pleasure to have you here, Mr Brathwaite. I have quite a number of friends who have served on the OISE board and I've actually been involved in education my entire life before I came here too, so I do have some familiarity with the association.

I was pleased to hear your comments on the dropouts, because I think it's a bashing that takes place without people having all of the facts that I think you've indicated. We don't take into consideration the students who do come back. So the facts are quite misleading. Obviously, the critics can use those facts to their advantage.

1100

I was interested in the discussion that you had with Mr Curling because I don't think it matters. I'm finding sometimes in conversations that I have, particularly with secondary school students, it's a difficult time to be a teenager in this province or anywhere and I find it doesn't matter who you are, there are some insensitive teachers who do have some expectations for students and,

when students don't meet those expectations, there is a putting down.

I guess my question to you would be, recognizing the fact that some of these teachers had their teacher training some time ago—and I was a secondary school teacher; I think some of them perhaps have lost touch with what's going on—what suggestions would you have in order that teachers perhaps have some opportunity for retraining, really coming to a better understanding of all the students they're serving? What can we do to be helping teachers?

**Mr Brathwaite:** That's an area that I have been working very hard at for the last 10 years, even before that. I think, first of all, the boards have to send a very clear message that there is an expectation that teachers will first of all be welcoming of young people, whatever their backgrounds, and secondly, that this welcoming means that you also allow parents as well as young people to have input into what goes on in the school environment.

This may mean a change in the type of extra- or co-curricular activities that are performed. It may mean a change in terms of the environment of the school, the visual images in the school, not that we take away what was there from the past but that we add images that reflect the students who are in the school, that we do a lot of training around intercultural relations.

Many teachers have no idea what that means or how it should be done. There's got to be significant in-service. The curriculum has got to be changed, not to include units about different groups of people but to completely change the nature of human history and the nature of knowledge to be more reflective of the contributions made by different peoples.

This is not something that teachers are going to do on their own. They don't have the time to do it. The resources have got to be put together and in Metro we've got a number of boards that have formed a consortium to develop materials of this sort and deliver in-service of this sort.

One of the concerns I've got has to do with the faculties of education themselves. Because many of the people who are instructors there have graduated for quite some time from teachers' colleges or from schools and are not as familiar with the types of strategies that might be appropriate for intercultural, multicultural and anti-racist education.

It is incumbent upon boards of education to try to provide this sort of training and to ensure that the people whom they choose as leaders in the schools—principals, vice-principals—have that sort of orientation, because it is clear that if the staff understand what the expectations are and what the leaders expect of them, they're more likely to try to deliver.

**Mrs Witmer:** I appreciate your comments and I just want to piggyback on something you said, and I think you've said it several times now: It's important that parents be involved.

**Mr Brathwaite:** Absolutely.

**Mrs Witmer:** Certainly studies indicate that is very true.



**Mr Brathwaite:** Yes.

**Mrs Witmer:** I just want to give you an example. We do see now on occasion teachers will call home and say to a parent, "Your child's not doing well." That's good. But you know what they don't usually do? They don't call that parent when the child improves. I had a parent call me the other day and she said: "You know, my child has had difficulty for two years now. I get the call saying, 'He's not doing well.'" She said, "I finally had a call from a teacher who's saying, 'You know what? He's doing well.'"

Those are the little things that teachers can do to make parents feel welcome and open up that discussion and that debate. It's a small thing but it certainly would build on what you're saying, where everybody has that opportunity for input.

I want to focus on the math and science, because I have to tell you, I'm personally extremely concerned about the fact that females in particular just are not accessing mathematics and science. In our own community we've got the University of Waterloo that offers a program for girls in grades 5, 6, 7, encouraging them. How can we, how can you at OISE help in making sure that we encourage more students, but particularly females, to access those two fields?

**Mr Brathwaite:** OISE having access to research can no doubt identify places where they have been successful in developing programs that have encouraged young women, at a very early age, to look towards career opportunities in the areas of math, science and technology. I think that's critical.

I think in terms of the type of teacher practices and strategies which facilitate or encourage young women to come into those areas, that's a critical area of research and teacher development that OISE can provide, because OISE runs a significant number of workshops through OCLEA every year.

I believe that in terms of staff development, in terms of the research that's out there about best practices, that will facilitate, but also something more long range, some sort of longitudinal study that would look at the changes we are attempting now in some of our schools to introduce young girls at a much earlier age, to determine whether in fact we're being successful, and monitor along the way attitudinal changes on the parts of young girls and boys, because there is no question about it that the behaviour of boys influences the behaviour of girls, and of course, as I said earlier, teacher expectations.

There's no doubt that we also have to do a job with the community at large, with businesses that have certain expectations about what types of occupations women do versus men, and parents who in many cases have some traditional notions about what their daughters should do versus what their sons should do. It's clear that if we can't influence parental opinion at an early age, those sorts of strategies that we put in schools will probably not be terribly effective.

**Mrs Witmer:** I wish you well. I think you'll be a welcome asset to OISE. I've always respected the work they do, and I hope that they will continue to carry on

and provide leadership in this province.

**Mr Brathwaite:** Thank you.

**The Chair:** Thank you very much, Mr Brathwaite, for appearing before the committee this morning.

**Mr Brathwaite:** Thank you, Madam Chair.

PATRICIA BLACKSTAFFE

Review of intended appointment, selected by third party: Patricia Blackstaffe, intended appointee as director, Eastern Ontario Development Corp.

**The Chair:** I would like to invite our next intended appointment, Ms Patricia Blackstaffe, to come forward. Welcome to the committee, Ms Blackstaffe. If you would like to make a brief opening statement you may, or we may just start through the rotation of the caucus questions.

**Ms Patricia Blackstaffe:** Why don't you begin. I hadn't thought of making an opening statement.

**The Chair:** All right, that's fine. Then we'll start with Ms Witmer.

**Mrs Witmer:** Welcome this morning; pleased to have you here. I wonder if you could just briefly tell me why you would be interested in sitting on the Eastern Ontario Development Corp and what experience you feel you have which would be an asset.

**Ms Blackstaffe:** Okay. I believe you all have my CV and you'll see that I received an economics degree from the University of Toronto, and ever since then I've had considerable experience working in a variety of different industries and different places, different countries in fact. I worked in France doing statistical work for two companies. I worked in Britain as an economic researcher for the British Medical Association, and subsequently was research director of a trade union.

I have been sitting on a national economic policy committee too of the Canadian Labour Congress, the major labour central in Canada, for the last 10 years. So it seems like it's a natural interest of mine, in addition to which I have considerable experience in a number of areas, and I think probably I could bring a different perspective to the board.

**Mrs Witmer:** Do you have any views at the present time about the effectiveness of the EODC?

**Ms Blackstaffe:** I don't. I was familiar with the fact that government did make loans and subsidies and so on to different corporations, but I had never looked into the particular bodies that did this. So in fact I've only just received a briefing today more on the duties of the board and so on.

1110

**Mrs Witmer:** From what you've gathered today, what do you see as the main role, then, of the corporation?

**Ms Blackstaffe:** It seems to me that the main thing it's attempting to do is fill a gap, fill a need really that is not fulfilled by the banks to support a variety of corporations and different industries, with the attempt to ensure that there be some kind of considerable economic diversification within the province and also trying to ensure that companies that maybe have some difficulty getting bank support can actually maintain their viability.



**Mrs Witmer:** You've just indicated that you were not totally aware of what the role of the corporation was. What type of awareness do you think there is, not only in eastern Ontario but throughout the province, about the activities of this corporation?

**Ms Blackstaffe:** I can't specifically answer that, but I am aware that certainly with some of the employers, where we represent members as a trade union, the employers do attempt to work with government where there is a need for financial support. I've never looked into the specifics of this. I'm assuming that there is a general level of knowledge, but I can't honestly comment on how detailed that is at the different levels of organizations, different sizes of businesses and so on.

**Mrs Witmer:** There actually isn't a great level of awareness. I say that based only on my own personal experience, because obviously we all serve constituents. At times employers will come or there'll be a group of employees who are concerned about business, and there doesn't seem to be an awareness that this is available and they might be able to access some funds. Mind you, I have more people knocking on my door than funds available, so there is a desperate need for this type of assistance. But how can we improve the awareness? You've indicated that you really didn't know until today what the role was. I've indicated to you that there are lots of people out in this province who I feel don't know. How can we raise the awareness of this corporation and make the public more aware of the fact that this is available? What can be done?

**Ms Blackstaffe:** I'm assuming already that you reach out through different business organizations across the province. I'm assuming that is already being done. Then it probably is more to the business community to make the connections between the different companies and so on to ensure they are aware that this kind of support is possible. But I really can't comment in detail because I just don't have that level of information.

**Mrs Witmer:** Are you aware of the fact that there's been some concern expressed that the corporation you're going to be involved with has focused its assistance on the manufacturing sector and that there's been some criticism because of that?

**Ms Blackstaffe:** Actually, I just became aware of that this morning. I hadn't been aware of that previously, no.

**Mrs Witmer:** How do you see yourself making a change? What else do you think should be happening? Should there be this exclusive focus on the manufacturing sector?

**Ms Blackstaffe:** I really can't comment. Not knowing the discussions that have previously taken place at the board or the businesses that come up before the board for support, I really can't comment on that.

**Mrs Witmer:** So you don't see at present in what other direction you might head. Do you think this really is the best use of the taxpayers' money?

**Ms Blackstaffe:** As far as I'm aware, it appears to be, but my understanding is that there is a number of different funds that get funnelled through this. Certainly the attempt seems to be to branch out to more than just

manufacturing companies. I know that's the intent, but I don't really know why the decisions have been made the way they have up to now to comment further.

**Mrs Witmer:** Just one last question: What impact has the recession had on industry in the eastern Ontario area?

**Ms Blackstaffe:** It's pretty devastating. A number of plants have closed down; certainly there are many layoffs taking place in the eastern Ontario region. It's been pretty decimated by the recession.

**The Chair:** Dr Frankford, Ms Harrington, Ms Carter, Mr Waters: 10 minutes.

**Mr Frankford:** I'll be brief. You obviously have quite a varied background. I'm interested in a number of things you've been involved with, the communications workers. I personally have an interest in the British Medical Association. You've got a degree in economics. Do these come together to give you any thought about the sort of economic activities you would like to be encouraging?

**Ms Blackstaffe:** I can't say. Not having had any kind of viewing of the kind of companies that come before the board, I can't really say. I certainly believe in the importance of diversifying the economic base, and that's really as far as I can comment.

**Mr Frankford:** You say "the companies that come before you." As I understand, you react to the applications that come in, so I'm not clear how much you can actively set directions, but maybe that's something that can be changed. Presumably, within the range of the applications, you can set certain directions.

**Ms Harrington:** Mr Frankford mentioned an interesting background. I noted you went to high school in—is that in south London?

**Ms Blackstaffe:** It's in west London.

**Ms Harrington:** I was teaching in London for a while, and I came there with an outdoor education program.

**Ms Blackstaffe:** Is that right?

**Ms Harrington:** Yes, Notting Hill.

First of all, I want to ask you what types of things has the Eastern Ontario Development Corp done over the last while?

**Ms Blackstaffe:** I just had a very quick briefing this morning, and my understanding is that they've given loans to different organizations to support them financially; loans and loan guarantees.

**Ms Harrington:** So obviously your role would be evaluating the applications that come in.

**Ms Blackstaffe:** That's my understanding, yes.

**Ms Harrington:** And seeing how they fit with what is viable and what the future of eastern Ontario hopefully should be. At the moment it's a rural-type area. It's a beautiful area—I grew up in Brockville—and it's a tourism area in places, certainly Ottawa and the Brockville-Kingston area. How would you like to see the economy improved? What direction would you like to see it go?

**Ms Blackstaffe:** In specific industries, that's some-



thing I have not thought about. As far as I'm concerned, one of the interests I would have is with corporations, organizations that come to the board and have a more collaborative working arrangement with their employees, for example, rather than a top-down hierarchical approach. If they have some way of involving their employees in decisions, in the way work is structured and so on, those kinds of things would be of particular interest.

**Ms Harrington:** How in the role with the ODC would you be able to facilitate that?

**Ms Blackstaffe:** Again, I'm not sure of the process you actually go through, whether you get to interview the individuals or just see the materials, but it seems to me that could be one of the criteria for the board to consider in terms of whether or not it provides financial support to an organization.

**Ms Harrington:** But you have no particular things you think would fit with eastern Ontario with regard to the types of, say, manufacturing or high-technology or what kind of information industries you would see? We're talking in this province now about sectors and which sectors should fit in what parts of the province.

**Ms Blackstaffe:** I am aware of the high-tech area, of course, close to Ottawa, and then the manufacturing area around Brockville and along Canada-US border, and then it's a considerable resource sector, with paper mills and so on in that area as well. In terms of bringing other industry to that area, I really don't have the documentation. I haven't thought that one through in enough detail to really give you any further comment.

**Ms Carter:** Following the same idea through, we have already mentioned that traditionally most loans have been to manufacturing businesses. In my own area of Peterborough we have lost manufacturing firms in a very drastic way. It seems to me that even if manufacturing comes back, it's still not going to employ the numbers of people it once did because of automation and so on, so maybe we should be looking at other sectors.

For example, tourism is probably one that is going to grow in importance in my area, and I'm just wondering what types of business you would feel should be supported.

1120

**Ms Blackstaffe:** Again, I was aware of support to the tourist industry and to manufacturing and, I'm assuming, through your Innovation Ontario Corp to the high-tech industry as well. As I say, I haven't thought any more broadly than that.

**Ms Carter:** Another issue is small versus large industry. Traditionally, large industry has been much more easily able to borrow. We've learned the hard way that banks lend very easily to vast organizations, but somebody who just wants a few thousand to start a business sometimes can't get it. I believe they're expected to have collateral which is very concrete, very definite; otherwise, they can't get a start. I was wondering what your approach would be to the small and medium-sized operations that might be asking for loans.

**Ms Blackstaffe:** That certainly appears to be the area

of growth in the economy at this point. I noticed the New Ventures approach, where you're giving relatively small loans to people who otherwise simply wouldn't have access to them to start businesses. It seems to me an excellent idea.

**Ms Carter:** Actually, sometimes the amounts required are exceedingly small. The government does have some oncoming projects for community lending, where people are going to be allowed to invest money in developments in their own communities, and the principal will be secure although the interest will not; the government will guarantee the principal. I'm just wondering if this is going to affect the operations of the EODC very much or how you would see it measured.

**Ms Blackstaffe:** I could see that there might be some way that those groups could collaborate. It seems to me it's in that kind of community development that there really is some kind of future. I was aware of small organizations being set up through the University of Ottawa, where they're starting to work on community economic development in eastern Ontario, and it seems to me an excellent idea. I could see there might be some possibility for these two groups meshing in their work.

**Ms Carter:** At least they should talk to each other and know what each other is doing.

**Ms Blackstaffe:** Yes, exactly.

**Mr Daniel Waters (Muskoka-Georgian Bay):** It's going to be an interesting problem for you to resolve. I'm actually with the Ministry of Culture, Tourism and Recreation, but in my past life with the labour movement, I worked in Cornwall, and I've spent a lot of time within my ministry. One of the things I found was that when free trade happened, which was prior to the recession, Cornwall got hit with the fabric mills in a big way. These were employers that employed hundreds and hundreds of people in one location, and the job of trying to find employment for all of those people—you're never going to get fabric back. It's gone to the Third World, low-wage areas that we can't afford to compete with. We have costs that make it impossible.

I look at the other part of what I do, which is tourism. In eastern Ontario there has been a move, through Gary Clarke and the Eastern Ontario Travel Association, to do things such as bike routes and things like that to enhance their tourist product, because you do have a very unique product in that area. I'm wondering whether the focus shouldn't be on more of that type of thing; not the traditional type of loan to an establishment but indeed maybe to a community-based or regional-based group that has a plan for something that will enhance the infrastructure throughout the community. I would like your opinions on that.

**Ms Blackstaffe:** I could see that that would be extremely valuable, setting up, as you say, that kind of infrastructural base in the different communities. That could encourage other industries, could draw other industries to them potentially in the future. One of the things that's become clear to me in travelling around eastern Ontario is that much of that infrastructural mechanism simply has not been maintained in the way it could have been because of the recession and the impact



of free trade. Yes, I would agree with that.

**Mr Waters:** The other thing is that historically, it appears, in the background notes we got, the EODC has been looking mainly at manufacturing. I gather that when they go out and talk about what the EODC does, it's mainly with that group. In these times, let's say workers might have an idea, the general public who aren't part of the chamber of commerce or Rotary or any of those groups that EODC had traditionally talked to. I'm wondering if there isn't a place for EODC to go into the overall public and say, "Here we are and here's what we have to offer." It might be night school courses in the schools of Cornwall or a community college—

**The Chair:** We're running out of time.

**Mr Waters:** I was wondering if that would be of interest or something you would be looking at.

**Ms Blackstaffe:** I could see there would be a real benefit to doing that. Our own organization has been working very closely with some of the employers, where we represent people to try and encourage a change in product manufacture, for example. I could see that would be extremely valuable to have those kinds of approaches.

As I say, I'm not familiar enough with the EODC to know what the routes have been in terms of communicating this program, but I could see there could be some value in communicating some of this to the labour movement, to people who are unionized but also to somehow get access to employees who are not unionized, who, as you say, have ideas and want to suggest it to employers, but maybe the employers aren't aware of all the financial options that would be available to them if they did, say, diversify their own industry and try and expand it.

**Mr Cleary:** Welcome to the committee. I'm just reading your résumé, and I see you've been involved in a lot of activity since you started working. I'm just wondering how you found out about this opening on the EODC.

**Ms Blackstaffe:** I received a call from the minister's office.

**Mr Cleary:** Thank you. There's been a lot of activity in our part of Ontario and the EODC. One of the big things at the moment now is that companies that have downsized and restructured and maybe even shut down for a short time and are starting up again, and there doesn't seem to be any help from the EODC for startup money. I'd just like your comments on that.

**Ms Blackstaffe:** Through this New Ventures program, very small amounts of money, and I guess this Innovation Ontario Corp too; the two seem to be offering startup money for new ventures, so I'm not quite sure what—

**Mr Cleary:** New Ventures is only \$15,000 and that doesn't go very far in starting up a company, so many companies can't take advantage of that. They don't qualify under the other program you mentioned. We have many that are looking for startup money. I have two or three right at the moment I've been working with, and the company officials have been up here.

The other thing I'm sure you're aware of is that there are so many changes in the administration office over

here on Wellesley. I'd just like your comments on that.

**Ms Blackstaffe:** I'm afraid I don't know anything about the administrative changes on Wellesley that you're referring to.

**Mr Cleary:** Two of the top people at the head of that have been changed or left just in the last few months, three or four months.

The other thing I'd like to talk to you about is that there used to be interest-free loans in our part of eastern Ontario to companies, up until about a year and a half ago or so when this government changed that. That was just enough to get some companies back in business. I would like your comments on that.

**Ms Blackstaffe:** They've been cut off?

**Mr Cleary:** Interest-free loans, to my knowledge, have been cut off.

**Ms Blackstaffe:** In terms of ensuring the return on the money that is loaned or guaranteed, it would seem to me that's probably one way of ensuring the loan will be repaid. Maybe that's been the problem in the past. I assume it was based on decisions as a result of things that occurred that were not favourable to the board's decisions earlier. I'm afraid I can't comment any more than that, though.

1130

**Mr Cleary:** I'd also like your comments on another thing. We get lots of requests and work with the Ottawa office on tourism and the service industry. There doesn't seem to be any assistance at all for especially the service industry.

**Ms Blackstaffe:** I was reading material last night and it seemed there was. The annual report was talking about how moneys had been loaned to the tourist industry particularly.

**Mr Cleary:** It's possible. There was one program in tourism, TRIP, the tourism redevelopment incentive program, and a few others. But right now in the service industry it seems very difficult, in my experience, and I'm involved a lot, to get provincial assistance.

All in all, what changes would you like to see in the EODC? Anyone who's interested in a committee generally goes there with a small agenda. What would your agenda be?

**Ms Blackstaffe:** I don't necessarily see any changes in the board at this time, given that I'm not that familiar with the decisions that have been made in the past. I just consider that I have a useful contribution to make to the board. Once I'm there and I've had some experience on it, maybe I'll start thinking about changes. But my main aim would be to ensure some kind of economic viability and diversity of the eastern Ontario region.

**Mr Cleary:** I'm getting nudged by my colleague, so I'd better turn it over to him now.

**The Chair:** Mr Curling, there are five minutes left.

**Mr Curling:** Welcome to the committee. My colleague Mr Waters—I know I'll get his attention now—has mentioned free trade and some of the negative things that could happen with regard to free trade. He's alluded to that.



One of the negative things that I think this corporation must be extremely concerned with is the decision made by the Premier that many of the offices outside of Ontario—in New York—were shut down. While we make some developmental decisions to improve business here, we live in a global village, as they say, and compete internationally, and as we develop we realize we develop in order to attract people to buy our product and also to export. Do you have any concern about that decision, that some of the offices abroad have been shut down that would have been encouraging some of the customers or international relationships in our business?

**Ms Blackstaffe:** This is more from reading the paper than anything, but my understanding is that the government itself is playing some of that role without actually maintaining the offices themselves, that the ministers and the staff and so on travel in order to facilitate that kind of dialogue overseas. My understanding was that it was a budgetary decision that they chose to close down these offices, and I respect their right to make that decision. I'm sure they were not assuming that somehow they weren't going to be able to continue these dialogues with people we trade with regularly.

**Mr Curling:** There's an old expression, and presumably it's changing with our currency: penny wise and pound foolish. My feeling is that to make that decision has really harmed the expressions of businesses abroad. I have no confidence that the bureaucrats who will travel back and forth on these trips will be able to foster better economic relationships. I don't have any confidence even in the Canadian embassies abroad or federal trade offices abroad to represent Ontario efficiently, because the fact is that Ontario needs to be there. Quebec is there. Quebec is all over, making sure Quebec's role and trade happens.

Knowing you'll be appointed to this board, could I ask you to encourage the board to make an appeal to the government and say how important it is to have these offices so that when you make these loans, grants, development decisions, somehow there's a market out there you can plug into, not, as you said, hoping that the bureaucrats, when they travel for a two- or three-day tour, will be able to sell eastern Ontario on this matter? When opportunities come, the bureaucrats are either here or running back and forth on planes, and we're not getting our opportunity. Could I lean on you to carry that message to your board so your board could take to the Premier that that was not a sensible decision; that as a matter of fact, it will hurt not only eastern Ontario but Ontario as a whole? Could I depend on you for that?

**Ms Blackstaffe:** As I say, it was a government

decision, and your assessment of what has happened subsequently, that the bureaucrats can't carry the message—

**Mr Curling:** No, they can't.

**Ms Blackstaffe:** My feeling is that they can. They made those decisions politically, and I'm assuming they did it with considerable knowledge that in fact not the same kind of work but something comparable could be done from the ministerial level and the level of the senior government employees to actually perform a similar kind of activity, so I would be reluctant to take that on.

**Mr Curling:** I'm extremely disappointed that you won't take that message. But I would say to you, think about it and watch the impact.

**Ms Blackstaffe:** I certainly will.

**Mr Curling:** You may be so moved to say, reading back the Hansard: "My golly, he was right; we're losing. Stop blaming it on free trade, but get on into the economic international market and do some business."

Thank you very much and good luck.

**The Chair:** Thank you very much for appearing before the committee this morning, Ms Blackstaffe.

We would like a motion to approve the intended appointments for this morning. Are you moving all three of them, and is there any wish to vote on any of them individually?

**Mr Waters:** I am moving all three, Madam Chair.

**The Chair:** Mr Waters has moved the appointment of Mr John Arthur Geller as a member and vice-chair of the Ontario Securities Commission, Mr Harold Brathwaite as a member of the Ontario Institute for Studies in Education, and Ms Patricia Blackstaffe as director of the Eastern Ontario Development Corp.

Is there any discussion on that motion? All in favour of that motion? Opposed? You have to vote if you're sitting in your seat.

**Mrs Witmer:** We'll vote for it as they've all been pre-approved anyway. It really doesn't matter if we have concerns.

**Mr Cleary:** It doesn't matter which way we vote.

**The Chair:** All right, that motion is carried.

Before we adjourn, I would like to request that the subcommittee meet on the 17th at 10 o'clock; the WCB, the attendance of Mr Odoardo Di Santo and Mr Brian King, will be at 10:15 on November 17.

Thank you for your attendance this morning, and the committee is adjourned.

The committee adjourned at 1137.





## CONTENTS

Wednesday 3 November 1993

<b>Intended appointments</b> .....	A-291
John Arthur Geller, Ontario Securities Commission .....	A-291
Harold M. Brathwaite, Ontario Institute for Studies in Education .....	A-294
Patricia Blackstaffe, Eastern Ontario Development Corp .....	A-299

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

CA2011

XC 119

-G52

Gouvernement  
Publication

A-19



A-19

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 17 November 1993

**Standing committee on  
government agencies**

**Workers' Compensation Board**

Chair: Margaret Marland  
Clerk: Lynn Mellor

# Journal des débats (Hansard)

Mercredi 17 novembre 1993

**Comité permanent des  
organismes gouvernementaux**

**Commission des accidents du travail**

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 17 November 1993

The committee met at 1018 in room 228.

## WORKERS' COMPENSATION BOARD

**The Chair (Mrs Margaret Marland):** Good morning. I'd like to call to order this meeting of the standing committee on government agencies. This morning we have the continuation of a review of the operations of the Workers' Compensation Board. We would like to welcome Mr Odoardo Di Santo, the chair of the board, and Mr Brian King, the vice-chair of administration.

You are here as a result of an invitation by the committee to appear before the committee as a result of an exchange of correspondence between Mr King and the Provincial Auditor, Mr Erik Peters.

**Mr Brian King:** Good morning, members of the committee. I am here today to answer questions that you may have surrounding my testimony to this committee that occurred in September of this year.

I have in the last few weeks reviewed the transcripts of that testimony. I reflected upon my own words to the members of this committee. I have read very carefully Mr Peters's letter of October 21, 1993, to the Chair of this committee. It's clear to me that certain parts of my testimony created misunderstandings that I did not intend.

To ensure that the Provincial Auditor was not offended by my words, Mr Peters and I were in contact and I apologized for any misunderstandings which arose as a consequence of my presentation to this committee. I believe you have copies of my letter. In his correspondence of October 27, 1993, to the Chair, Mr Peters accepted my apology.

For the members of this committee, let me be clear that in my testimony I did not mean to imply that the Office of the Provincial Auditor acted in anything other than an impartial manner. I'm concerned that my comments over the course of three and a half days may have led some people, including this committee, to think otherwise.

In my many contacts with Mr Peters I've received valuable advice and constructive criticism. These discussions have always occurred in a frank and cordial manner. Let me emphasize that we agree with the recommendations contained in the auditor's report, the special audit on the facility that the WCB is involved with.

We're providing, for example, a report to the minister and to the cabinet on the economic justification for the construction of Simcoe Place, which was one of the recommendations in the report. We've reviewed our conflict-of-interest policy to address concerns brought forward in the auditor's report. We also adopted the recommendation designed to remedy the finding that the spirit of section 64 of the Workers' Compensation Act had been breached. This was all reported in the initial report of the Provincial Auditor, that we were in full agreement to comply with the recommendations.

The Workers' Compensation Board and the Ministry of Labour have been working to improve the accountability framework within which the WCB operates. A final draft of a new memorandum of understanding has been prepared, and the Deputy Minister of Labour and I have arranged to meet with Mr Peters—I believe the meeting time is November 24, 1993—to discuss our progress in implementing the auditor's recommendations, including the draft of a new memorandum of understanding.

I would agree with the Provincial Auditor that our time should now be spent on focusing on the important issues surrounding the accountability framework. In the meantime, I am here to answer any questions members of this committee might have.

**The Chair:** Thank you, Mr King. Is it the committee's wish that we rotate with time allotments, and do you wish to do 10-, 15-, or 20-minute time allotments?

**Mr Steven W. Mahoney (Mississauga West):** Whatever your pleasure is, Madam Chair. I would think we should rotate, 15 minutes.

**The Chair:** Fifteen minutes. Fine. Then we'll start with the official opposition. We don't have the stopwatch this morning, but we'll try to be accurate.

**Mr Mahoney:** Do you want one?

**The Chair:** No. I have a watch, but not the stopwatch we usually use.

**Mr Mahoney:** Thank you, Mr King, for your opening remarks, and thank you and Mr Di Santo for coming here this morning. The reason the committee asked you to come is not really addressed in your opening remarks, and I'd just like to focus on that.

You can appreciate that when we're in hearings, the import or the impact of statements that are made by witnesses might not sink in directly to the committee clearly as much as it would do to someone such as the auditor or any other agency or board which might then read them subsequently in Hansard. I recall questioning you about your statement. I think you said something to the effect—and I don't want to put words in your mouth, but you used the word "rhetoric" in reference to the Provincial Auditor's report.

Others asked, but I recall asking you personally, if you considered the Provincial Auditor's report to be rhetoric. I don't want to flog a horse. I know that, in your mind, you think you have issued an apology that has been accepted by Mr Peters. My difficulty, to be very straightforward with you, is that what you've apologized for in your letter is "any misunderstandings about the objectivity and factual content" of the report.

That's not my concern. If one of my colleagues misunderstands something you said, that's their problem; and if I misunderstand it, then hopefully I would get clarification. My concern is that I don't think this is about misunderstandings. I think this is about what you refer to as subjective opinions that the auditor might have



had but are really subjective opinions that you, sir, had in relation to his report.

Had you clearly apologized for saying what you said, specifically in relationship to the Hansard quotes on page A-234, where you were asked again if you considered the auditor's report to be rhetoric—you've given your subjective opinion, with due respect, about what the Provincial Auditor's role is. I think he took exception to that, and in hindsight I take exception to that, because I think the Provincial Auditor literally has to be more or less above all of us and looking down at the activities that take place, whether it be in Parliament or whether it be in an agency of some type.

For you, then, to come out and say that you don't find it to be a normal audit, that if he finds someone in breach of the law, you find that to be subjective—you've gone on. In a number of instances you refer to the legal opinions. There are very much contrary statements here; as an example, where you say, "As a matter of fact, I tried to get Erik Peters, the Provincial Auditor, to show me his legal opinions, but he wouldn't."

The auditor goes on to say:

"Mr King's allegation that he tried to get me...to show him my legal opinion, but I wouldn't, is not factually correct. If he had contacted me directly, which he did not, I would have advised him that under the Audit Act, according to legal advice, I am precluded from providing the legal opinion because it forms part of the audit working papers."

He is precluded from providing them to me as a legislator and he's certainly precluded from providing them to you.

In the hearing, there were calls for your head on a platter. I don't want that. What I want is a very clear statement that what you said was factually incorrect and that you apologize to the committee and to Mr Peters for saying that. Someone suggested that we wanted you to grovel. I don't want that at all. You are a professional, and I expect you would continue to conduct yourself, as you have in most cases, in a professional way. But I don't see an apology for misunderstandings being, quite frankly, an abject apology for saying something that's factually incorrect. There are a number of examples, and I won't go through them all.

**Mr King:** Let me first begin by indicating that on page A-235 of the Hansard that I have in front of me, I will quote my remark, "I did not call the Provincial Auditor's report rhetoric." So I did not call the Provincial Auditor's report rhetoric.

**Mr Mahoney:** Are you quoting there? I'm sorry.

**Mr King:** I'm quoting from Hansard, on what I understand to be page A-235, "Mr King: I did not call the Provincial Auditor's report rhetoric." I'm not too sure which copy of Hansard I've got, but clearly my response to the question of rhetoric was, no, I did not call it rhetoric.

Secondly, I did not want to leave any impression whatsoever that the Office of the Provincial Auditor acted in anything other than an impartial manner. My intention in speaking the word "subjective" was to underline the

conclusion of the Provincial Auditor's report that it was the spirit of section 64 that he found us to be in breach of and that there was no illegality.

**1030**

Clearly, in Ontario as well as in other jurisdictions, there's an expectation for a Provincial Auditor to be candid and forthright when investigating in government ministries and agencies. In my eagerness to, I suppose, point out that we hadn't been found to have conducted ourselves in an illegal manner, I made a comment that has been misconstrued as casting doubt on the objectivity of the Office of the Provincial Auditor. I have apologized for that misunderstanding to the Provincial Auditor with no questions asked. I apologized to Mr Peters both personally and in writing.

When I suggested in my testimony to this committee in September that this was not a normal audit report, I was basing it upon my experience, which is rather widespread, on what I understand normal audits to be; that is, operational audits that are conducted annually on agencies like the Workers' Compensation Board and other departments, not special audits. I've never been involved in a special audit and I did find it significantly different than the operational audits we're all subject to as managers in public agencies from year to year.

Clearly, I don't think Mr Peters's findings in the special audit were influenced in any way because the request for the report came from this committee. We unequivocally agreed to implement the recommendations and we agreed with the recommendations in the audit report and are working in partnership with Mr Peters and the Ministry of Labour on implementing the findings.

**Mr Mahoney:** The issue of it being a normal audit: Have you been involved in provincial audits before?

**Mr King:** I have been involved in the normal audit process on at least eight or nine occasions over the course of eight or nine years.

**Mr Mahoney:** Of a Provincial Auditor?

**Mr King:** Of a Provincial Auditor, yes.

**Mr Mahoney:** We all know the provincial audit that comes out on the government of the day, at which time they delve into shoes in the closet, literally, which in terms of an accounting audit would hardly be considered normal in the business of accounting where a large accounting firm comes in and analyses the books, so to speak. There are often comments made about a government of the day that some of its activities are inappropriate or the auditor finds something wasteful and this is not, clearly, the same as if you owned a company and your auditors came in to check your accounting procedures.

Why would it not be normal for a Provincial Auditor to comment on process in an agency in dealing with the building? Because clearly what he said is that he didn't agree with the process that was used in dealing with section 64 and the implication was that you could have, should have, sought cabinet approval for the building. Why is that not normal?

**Mr King:** During the course of a normal audit that I've been involved with for seven or eight times, you



have almost the full year to debate and discuss issues surrounding whether or not you can be doing your job better as a manager of an agency or a manager of a government department.

You have the time to reflect upon how you can repair or amend the way you're managing. You have time to reflect whether you can agree with the findings of the audit because it may indeed come up against a service delivery objective. In other words, an audit may find that you're not secure with your computer system and you find that to get it secure you're going to have to shut it down and then you can't pay your cheques. You have a lot of time to consider.

In the special audit, we had time limitations and there was a conclusion time. We agree with the conclusions that he arrived at, however. We stated so in our written response included in the audit.

One other minor point you had raised earlier and I had forgotten to comment on was the question of the "wouldn't" or the "couldn't" in terms of the legal opinion. I happened to be, at the risk of not knowing how far away, let's call it over 1,000 kilometres away on holidays at the time the special audit was tabled, I believe, before the public accounts committee. It was the next day, I believe, that I read in the *Globe and Mail* national edition that there had been some information or some things happening about it. So I phoned back and I spoke to the person who was I guess acting as my proxy at the time and we briefed each other, or I got briefed, over the telephone.

The question of the Provincial Auditor's legal opinion did arise in that telephone briefing. I could not honestly tell you, Mr Mahoney, whether or not the individual who briefed me said Mr Peters said he "couldn't" or "wouldn't." That is something I simply couldn't recall based on a conversation that occurred in July. It was not a big deal. It was, "Did you ask for the legal opinion of the Provincial Auditor?" "Yes, but he said that he," and I honestly couldn't tell you whether it was a "wouldn't" or a "couldn't" that came out.

I did not know Mr Peters's position vis-à-vis section 19 of the act, wherein "audit working papers of the office of the auditor shall not be laid before the assembly or any committee of the assembly," until Mr Peters telephoned me approximately September 27 to give me the reasons why he didn't release it, and at that point I realized that my answer to this committee should have been "couldn't."

**Mr Mahoney:** We could probably cut this reasonably short if you're prepared to answer this question: Your statement, both in your letter and again this morning, is that you apologize for any misunderstanding. That's almost like saying you're sorry that everybody misunderstood you. Are you sorry you said what you said and are you prepared to apologize to Mr Peters and this committee for having said those things?

**Mr King:** I have already apologized to Mr Peters for the misunderstandings that my inability to communicate led to. I was misunderstood. There was no intention on my part to mislead either this committee or Mr Peters.

**Mr Mahoney:** I understand that you've said that. When we say something in the Legislature that the Speaker is not happy with, the Speaker stands up and says, "Would the member withdraw those remarks," and very often we indeed do that. Even though it may not be required under parliamentary rules, we do it just in the spirit of fair play.

I guess I'm asking you, are you prepared to withdraw your remarks that were made with regard to the provincial audit and are referred to in the Hansard that has been presented by Mr Peters, and to apologize to Mr Peters and the committee for having said that? Not for what you think we understood or misunderstood; that's our problem. It's what you said, Mr King, that we're talking about. If you were a parliamentarian and I were the Speaker, my question would be, "Would the member withdraw?" Mr King, will you withdraw your remarks?

**Mr King:** I regret my remarks. I have already apologized to Mr Peters for any misunderstandings that my remarks led to. None of my remarks were misleading or intended to mislead the members of the committee. That may seem like a fine distinction to you, but I'm a public servant and I cannot and will not ever mislead a public committee like a cabinet committee like this.

I suppose from the outset of this process, beginning probably back in January, we've been faced with what I will call reported factual errors. One that I kept seeing reported was that it's \$380 a square foot. One tends to get tired of explaining, "No, it's not \$380 a square foot," so perhaps I have overreacted and become too defensive to some of that information that is reported in the media.

**Mr Mahoney:** In fairness, we have to do that every day in our jobs.

1040

**Mrs Elizabeth Witmer (Waterloo North):** You've indicated, Mr King, that your intention was not to mislead the committee, and yet it's abundantly clear that when you appeared before the committee, you did mislead this committee on at least three points when the information was reviewed by the auditor.

The first point was the fact that you had indicated that the auditor departed from the standard practices by providing subjective opinions, which of course he had not; that you had asked the auditor for legal opinions, again, which was not done; and finally, that a holding company involved in the property had been audited by the Office of the Provincial Auditor, and it had not.

So I guess my question to you is, how do you reconcile the fact that you're saying you did not intend to mislead the committee when it was pointed out by the Provincial Auditor that on three occasions within the presentation that you made, you did indeed do so and you are in conflict with the auditor?

**Mr King:** I again categorically deny that I misled this committee. You've raised three points. One of them is the question of "subjective." I have covered that both in my opening statement and in response to a question from Mr Mahoney. Let me repeat myself: I did not mean to imply in any of my remarks that the Office of the Provincial Auditor acted in anything other than an impartial manner.



I used the term "subjective." My intention there was to indicate probably relief that we weren't found to have conducted ourselves illegally but that we were in breach of spirit. I want to repeat once again that we have openly agreed to every recommendation contained in the Provincial Auditor's report and to follow them.

I have again tried to address the second question, which is the question of legal opinions. A proxy of mine asked for a copy of the legal opinion. If I'm found to have misled this committee because I used the word "I" asked for a legal opinion instead of "my agent" asked for it, then I don't know where I can go with that. But indeed, through myself, an agent asked for the legal opinion. I've explained that on the telephone while I was on vacation, I was told that we—and I don't remember whether it was "would not" or "could not." I did not intentionally—it was not until September 27 that Mr Peters explained section 19 of the act to me.

I may be guilty of failure to have checked into the law on that matter, but I was testifying for three and a half days in front of this committee and I suppose there were 10,000 words of testimony.

Finally, with respect to the holding company, in 1985, Management Board of Cabinet passed a directive which said that agencies should seek Management Board approval before they incorporate subsidiaries to do things that they cannot do. In 1988, that numbered company, 799, was incorporated to invest in real estate in accordance with the Workers' Compensation Act and the Pension Benefits Act. If there were indeed a breach of a Management Board directive, presumably that breach occurred in 1988, when the numbered company was created to hold real estate.

We had been audited, our investment division, in 1990. Simcoe Place was not part of the holdings of that numbered company at the time; there were other real estate holdings in 799.

I suppose we mistakenly assumed that because we had been audited and we had real estate transactions in the numbered company, we had received some verification of our ability to use it. We were wrong. Mr Peters pointed that out to us in his letter to the committee of October 21, I believe it was.

I indicated earlier that the board of directors is taking action to rectify the breach of section 6.2, I think it is, of the Management Board.

There was no intention to mislead this committee that Simcoe Place had been audited by the Provincial Auditor under the holding company. The holding company itself had been part of an overall audit, one presumes, of the investment branch of the WCB. We took mistaken comfort; we're admitting we made a mistake. The board is rectifying that by seeking approval for the numbered holding company through the normal process laid out in Management Board.

**Mrs Witmer:** In public accounts, Mr King—let's go back to the legal opinions—you had indicated that you had two or three legal opinions. How many did you share?

**Mr King:** The public accounts committee, which was,

as I recall, in January of this year, was my first real appearance before any of the cabinet committees of Ontario. I didn't come with a big, thick binder with everything in it because I was unaware of process.

We began to answer questions at approximately 2 o'clock and ran straight through until after 6 o'clock. I happen to remember that because I was hoping to get a break for personal comfort reasons and we kept running right through. That was the first day.

During that first day, I indicated that we had two, possibly three, legal opinions and that I would be pleased to share those legal opinions with the members of the committee.

When we broke at 6:10 or 6:15 from the public accounts committee, I met with my staff. We met the next morning at 8 o'clock and said, "What can we have ready?" because the committee was called together at 10 o'clock the following morning.

You may recall we had three feet of legal documentation. There was one legal opinion; there may have been a real estate. Again, the committee met from about 10 o'clock till a quarter to 12 and then it voted to adjourn.

I was left with the following: I had promised material to that committee. We hadn't had time. There was simply an hour of working time between around 9 o'clock, 8:30, when our office opened, and when we had to leave for the hearing. I hadn't had time to supply all that information.

Some of my officials and I stayed behind to meet with the Provincial Auditor and his officials to say: "What do we do about this information the public accounts committee has asked for? Do I go back and get it and deliver it to them?"

I was informed—there were four or five us; I could let you know who they were—that we would receive advice as to what we should provide in addition to what we had already provided, and presumably that advice came when this committee sent Mr Peters in to do the special audit. He had access to all of the information, including the other legal reports that existed.

So you're right that I had promised on the first day of testimony that we would provide the committee with legal opinions. The second day I had not had time to get them or collect them yet and asked for advice. Mr Peters gave me that advice. Eventually those legal opinions came to the committee through his report, presumably, that he examined them.

I'll admit to personal distress at having read Hansard a week or so later and the term "liar" appeared, but I'm a public servant so I can't respond to those sorts of things.

**Mrs Witmer:** Then how many legal opinions did you personally share with the committee?

**Mr King:** On the second day of testimony at the public accounts committee in January I brought one of the legal opinions. The other one was not available to me in the short period of time. I had an order to get the material. I volunteered that report through the person of Mr Peters following the second day when the committee voted to end debate. I was concerned because I hadn't



delivered everything I had promised, but I didn't have time.

**Mrs Witmer:** So who was providing you with the third legal opinion that you made reference to in the committee?

**Mr King:** There was a third legal opinion, which was an internal one done by our own legal branch. In addition, we have legal opinions from Aird and Berlis; Stikeman, Elliot; and ultimately from Weir and Foulds.

1050

**Mrs Witmer:** You've indicated that perhaps you overreacted that day, that you were overdefensive. You've indicated that you're a civil servant. Do you feel in any way that you are a political appointee to the position you hold?

**Mr King:** Of course I'm appointed through an order in council. That makes one, presumably, appointed by political process rather than through some sort of public search. But I'm not a political figure; in other words, I don't have a political agenda.

**Mrs Witmer:** Have you had an affiliation with the NDP in the past, Mr King?

**Mr King:** No, I have not.

**Mrs Witmer:** So you don't feel you were appointed for that reason.

**Mr King:** I didn't apply for the job of vice-chair of administration of the Ontario Workers' Compensation Board. A headhunting firm, to use the common parlance, was in touch with me, because there are a dozen of us in Canada who know an awful lot about workers' compensation, and I suspect the other 11 people were also contacted.

**Mrs Witmer:** You had worked for the NDP government in Manitoba?

**Mr King:** I had worked as the chairman of the Workers' Compensation Board in Manitoba.

**Mrs Witmer:** Under the NDP government?

**Mr King:** Yes, and under the Conservative government.

**Mrs Witmer:** Why did you leave when the Conservatives came to power? Why did you leave Manitoba?

**Mr King:** Before I moved to Manitoba, I ensured that I had a contract with the government that would allow both parties to end the relationship under contractual terms. I had a disagreement of opinion with a minister, and we agreed to leave.

**Mrs Witmer:** This was the Labour minister in Manitoba.

**Mr King:** That's correct. He exercised his right under the contract, which we discussed.

**Mrs Witmer:** That brings into question—it's been asked many times and it's been discussed—whether or not the position you find yourself in should be a political appointment or whether the organization should be run by a professional insurance executive.

**Mr Daniel Waters (Muskoka-Georgian Bay):** On a point of order, Mr Chair: It's my understanding that Mr King is here today—and it was agreed upon at subcom-

mittee and by committee—to talk solely about the communication between himself and the auditor, and not about what he did in Manitoba or anywhere else in the world.

**Mr Mahoney:** Read the agenda.

**The Vice-Chair (Mr Allan K. McLean):** You're out of order, Mr Waters. Mrs Witmer, you may continue.

**Mrs Witmer:** Thank you, Mr Chair.

**Mr King:** There was a question?

**Mrs Witmer:** Yes, there was a question.

**Mr King:** I happen to have a personal belief that in order to try to get the accountabilities straight as to who the president or the vice-chair of administration works for, it probably should be the board of directors. Now, our board of directors has already recommended a governance model wherein my position would be hired by the board of directors.

I want to clarify something, though. I'm a professional. I don't get my jobs because of who I know; I get my jobs because I'm a professional. I will stack my career and the things I have done against anyone. I want to make that perfectly clear.

**The Vice-Chair:** You have four minutes left.

**Mrs Witmer:** There's a question I'm left with. You've indicated that you felt defensive. Obviously, you want to support the government on the WCB. You and I both know that the organization has come under increasing criticism from employers and injured workers throughout the province. In fact, that criticism is growing daily as the WCB is accused of mismanagement. Certainly today I heard of a perfect example of how we are mismanaging the system and wasting taxpayers' dollars. I'm wondering if, in any way, some of the comments you made were an attempt to show support for the organization and the government. That's why I'm wondering if we should have a very neutral insurance executive running this organization who has absolutely no link with any political party or any past history.

**Mr King:** The position of the vice-chair of administration is not to protect the government. The board of directors is the one that makes the decisions surrounding all of the important issues pertaining to workers' compensation. I believe it is my duty that when the board of directors has made a decision, I've got to be one who defends those decisions. It was the board of directors that made the decision to go ahead with a facilities strategy commonly referenced as Simcoe Place, and I believe it is my duty to defend that, but that has no bearing whatsoever to the government's position. That has more to do with the board of directors' position.

As to the neutrality or the professionalism, I happen to have supported the board of directors' recommendation that there be a different model of governance, where the vice-chair or the president is hired by the board of directors as a professional manager, never admitting that I'm anything but a professional manager.

**The Vice-Chair:** Thank you. We'll move on now to the government.

**Ms Jenny Carter (Peterborough):** I'd first like to



remind the committee about the letter from the auditor, Mr Peters, to Mrs Marland, dated October 27, which says:

"I have received the letter of apology from Mr King of October 27, 1993, in which he states that my letter of October 21 has clarified the situation for your committee.

"In my opinion this would put this matter to rest and would enable all of us to carry on the important work of improving the accountability framework in which the Workers' Compensation Board operates.

"Sincerely,

"Erik Peters, CA, Provincial Auditor"

We should all be clear that there is no question at issue between Mr King and Mr Peters. That in fact was satisfactorily resolved some time ago.

The auditor did ask that the WCB's conflict-of-interest policy for its investments should be revised to address conflicts which may arise between the needs of WCB administration and the WCB's investment needs. In your statement, Mr King, you do say, "The WCB has reviewed its conflict-of-interest policy to address the concerns of the auditor." Could you tell us in a little more detail what those steps might be?

**Mr King:** Yes. We have an investment committee of the Workers' Compensation Board which sets the investment policy, the overall blanket policy for investing.

We are working on any conflict-of-interest guidelines that have to be struck which the members of that committee have to follow. Indeed, we have conflict-of-interest guidelines that we, as employees of the board of directors, have to follow, or as members of the administration have to follow. We try to craft and tailor our own behaviour on that which government expects of its employees. I believe the specifics of it were that there may have been the appearance that, being both a tenant and an investor, we may have been in a perceived or an actual conflict of interest in being both a tenant and an investor.

We are preparing a report, through the process of the investment committee, through the process of our board of directors, for the minister and for the cabinet. This report will include detailed recommendations as to how we're going to deal with the conflict of interest.

I've already indicated that the Deputy Minister of Labour and I have a meeting with Mr Peters, I believe it's November 24, to go over the work done thus far and to follow up on his concluding paragraph of the letter you quoted, which is, let's get on with the accountability framework he has suggested. We will begin discussing with the Provincial Auditor the needs, to meet his concerns about potential or actual conflict of interest, as early as the 24th, having done background work.

**Ms Carter:** The auditor also said that the memorandum of understanding should be updated, and you state, "A final draft of a new memorandum of understanding has been prepared." Could you also tell us a little more about that?

**Mr King:** The staff from both the Ministry of Labour and from the Workers' Compensation Board, including

the Deputy Minister of Labour and myself, have been working quite diligently over the past while to get an updated memorandum of understanding which will cover areas where the Provincial Auditor felt the accountability was either weak or needed clarification or needed, for the first time, to be outlined. Those were three possibilities.

**1100**

This draft memorandum, which may not be its final form because we will be going over it with the Provincial Auditor, sets out a new accountability arrangement between the Ministry of Labour and the agency, and among other things it covers the following: It covers real estate investments; it covers the application of Management Board directives that may come down from time to time and how we're assured and the ministry is assured that we are complying with directives; it covers accountability for securing cabinet approval for any real estate transactions which we may be required to seek approval for; and it outlines the sharing of information that should occur between the ministry and the agency.

Again, this flowed from a recommendation of the Provincial Auditor. We fully agreed with it. I believe Mr Peters had also met with the Labour people and they concurred with getting the memorandum of understanding updated. We'll have our first meeting to go over it on November 24.

**Ms Carter:** So you would say that you're doing everything you can to implement the auditor's recommendations.

**Mr King:** From the very beginning, we have concurred with all of the recommendations of the Provincial Auditor's report. That agreement was in writing and it was contained in the report, and we are most willing and are complying.

In very broad terms, there were three areas. One of them was to deal with the section 64, and that's where we're preparing a report for the minister and for the cabinet. Another one had to do with the accountability, and that's the memorandum of understanding. The third one was to report back to the public accounts committee in 1995 or 1996, I don't remember, when the building is completed, to determine whether or not this was based upon the rental of the facility, the final cost, our work size, whether this was indeed in retrospect a good or a bad deal.

**Mr Rosario Marchese (Fort York):** Since points of order often do not work in terms of getting to some of the statements that are made by members that, in my view, are preposterous, I think it's useful to raise some comments that address that, and would want to speak to some of the things that were said at the last subcommittee as a way of putting some things on the record.

In my opinion, the letters that were written by Mr King to Mr Peters, the letter, and the letter that was addressed to Ms Marland by Mr Peters, were for me sufficient in terms of whether or not we had dealt with the matters that had been raised there.

Mr King writes a letter that says: "I apologize for any misunderstandings about the objectivity and factual content." He did not say, "I apologize for having been



misunderstood." He said, "I apologize for any misunderstandings."

Mr Peters writes a letter and says: "I have received the letter of apology from Mr King of October 27, 1993 in which he states that my letter of October 21 has clarified the situation for your committee."

"In my opinion this would put this matter to rest and would enable all of us to carry on the important work of improving the accountability framework in which the Workers' Compensation Board operates."

For me, it was sufficient that we had two letters between two people who have talked about the issue and the problem that addressed the matter. We then come back into committee in essence to deal with the issues of apologies and whether or not people have apologized appropriately. Part of my opposition to it was that given that this has been satisfied, I was in no way happy to have to satisfy the killer instincts of the opposition members on this issue, nor am I happy to satisfy the political partisanship of the opposition as clearly their questions have raised. I felt that what they wanted was public penance and grovelling, yes, and I think that's what they were trying to extract, which I think was totally inappropriate, in my view. The questions raised by Mr Mahoney continue to raise those very questions.

By the opposition members, again by the Conservative Party: She asks questions that have nothing to do with the relevance of what Mr King is doing, but raises the question of whether he is a member of the NDP—I find that completely inappropriate—asks questions about why he left Manitoba—in my view, completely inappropriate—and asks questions about whether this should be a political appointment or not. Since when in the history of political parties have we not made political appointments, as if somehow, when the NDP makes political appointments, it's a problem?

They know full well, having been in government, both of these opposition members, all of them that are here, that they have made political appointments in the past, as we are doing now on some of these positions. Why is it inappropriate for this government to make political appointments when we do and not inappropriate for Conservative and Liberal governments to make political appointments? I find it offensive.

Here we have Mr King and others present to address our questions. Given that, I will ask a question on the memorandum of understanding and ask Mr King, or anyone who can answer, when was the last memorandum of understanding updated?

**Mr King:** The best recollection we have is that it was approximately 1982 or 1983.

**Mr Marchese:** It was 1982 or 1983. Is it your understanding, or to your knowledge, have there ever been attempts in the past, since 1982-83, to update the memorandum of understanding?

**Mr King:** When Mr Di Santo and I arrived, we looked at the memorandum of understanding and believed that it required some updating because it was—if not stale, it had to be looked at again and so I believe it was us that initiated discussions with the Ministry of Labour

to begin working on an updated version. That may not have been immediately following assuming office in the spring of 1991; it may have been somewhat later in 1991 or early 1992, once we'd gotten a better sense of the things that were required, but yes, we did initiate a discussion on updating the memorandum of understanding.

**Mr Marchese:** So when you got into the position, or some of you got into the position, it was your stance that this memorandum needed to be updated.

**Mr King:** Very clearly, something that is 10 years old should be looked at. Whether or not it needed significant change is another question, but I think you should always be reviewing those sorts of things to see if they keep up with the changes that are occurring both in the way we govern and in the way the government is governing. Therefore, the review was under way and it was necessary, not predicting what changes might have occurred.

**Mr Marchese:** So the auditor has made a number of suggestions about things to change in the memorandum of understanding, and I presume you are working on all of those issues he has raised.

**Mr King:** We're working on everything we can agree to with the ministry that doesn't fall outside our jurisdiction or the ministry's jurisdiction. If there are things that fall outside the scope of a memorandum of understanding, we would be discussing with Mr Peters, and presumably with the minister, whether there's another forum where we could deal with the accountability question, because we can only go as far as our law and regulation allows us to in terms of memorandums of understanding. That's why we're going to be having the ongoing dialogue with the Provincial Auditor on this matter, to determine what will satisfy the necessary accountability framework that he is so rightly calling for.

**The Vice-Chair:** Two minutes left. Okay, we'll pass on to Mr Mahoney.

**Mr Mahoney:** Mr King, I want to first of all say that if Erik Peters is prepared to accept your apology, as has been indicated in a letter, that's one issue. Do you think it's necessary for you to apologize for misleading this committee with some of the statements?

**Mr King:** I did not mislead the committee.

**Mr Mahoney:** Could I just ask you to go with me to page A-231 of September 15 Hansard, if you have that there. In your answer you say: "As a matter of fact"—a very important statement—"As a matter of fact," not in your opinion, or not, "I believe this might have occurred."

1110

**Mr King:** Can we get a copy of that? I don't happen to have a copy of the Hansard.

**Mr Mahoney:** Could we get a copy of that? It's on its way to you. You're not giving us a subjective or objective opinion here; you're giving us a statement of fact and you're telling the committee this. I suggest to you that the statement I'm going to read would clearly influence the feelings of the members of the committee if we were to take it as read.

"As a matter of fact, the company that ultimately



ended up as the real estate holding company, the numbered company 799, had been specifically audited by the Provincial Auditor's office in 1990, at which time the Simcoe Place development was known and it was known that 799 was going to hold the Simcoe Place. There was no mention," in that audit you're referring to, "of any impropriety, any breach of any spirit of law, any breach of any Management Board of Cabinet directives, so we had," you go on to say, "I suppose, some right to believe that we had the transaction subject to the special audit that was ordered by the public accounts committee."

You're telling the committee this, Mr King, as a statement of fact which would obviously influence the next question that a committee member might have, because what you are saying is that everybody knew about Simcoe Place, everybody knew the company was going to be held in, the auditor had done the audit, and therefore there was no problem.

The auditor goes on to say in his response to you, "This passage contains a number of statements which are not factually correct." He doesn't say they're misleading, he doesn't say they could be misinterpreted, he says they are not factually correct.

"The establishment of numbered companies," he says, "had not been specifically audited by the OPA," contrary to your statement. "The audit covered," he goes on to say, "among all investments, those held by numbered companies. However," and this is very important, "at the time of the audit, the numbered company had made no investments in Simcoe Place."

Then he says, "By the time of completion of the audit...September 1990, the WCB had placed advertisements in newspapers requesting pre-qualification information from parties interested in providing space"—not necessarily building a new building but providing space; maybe we'll just stay where we are, maybe we'll move to another rental location, maybe we'll decentralize. I assume all those options were before the board and you were going out seeking proposal calls from companies interested in providing space.

He says in conclusion, "Therefore at that time the Simcoe Place development could not have been known to the OPA, nor was it known to the OPA that the '799' company was to hold the investment in Simcoe Place."

Mr King, this committee, when we call witnesses, particularly, as you have stated, someone who is a professional such as yourself, and we get a factual statement that says a complete audit was done in 1990, presumably before the NDP took office, of the Simcoe Place company that would hold that company, that a complete audit would have included examination under section 64 of the act, and therefore no comments were made about any improprieties or any breaking of the spirit of the law, then this committee would be led to believe that the Ontario Provincial Auditor had erred in some way when he did the audit in 1990 and did not inform the government or the committee or anybody of any improprieties. You have said that, as a matter of fact, he did all of those things.

I suggest, whether you did it intentionally or not, that you misled this committee as a result of that statement.

Certainly, I would have been misled in reading your statement and hearing your answer. I would have been led to believe that a full-scale public audit was done by the Ontario Provincial Auditor in 1990. That would lead me to believe that perhaps the Simcoe Place development had been approved prior to that in some way by the board or by cabinet or by even the previous government. Such is clearly not the case; all that was agreed to by the Workers' Compensation Board, some time in 1990, was to go out for proposal calls because, "We've got a lease expiring some time down the road in a few years and we'd better think about where we're going to put all our employees, so let's run an ad and see what we can find out." That happened in September 1990.

I just don't understand how you as a professional can let that statement stand and how you can say that statement—I will give you the benefit of the doubt and say it was perhaps simply made in error, perhaps made inadvertently, perhaps made under pressure. As I recall, there was a fair amount of pressure in those hearings, but you handled that, and I don't think you need Mr Marchese or anyone else to defend you. I think that's your job.

This committee has a statement here. Never mind that the auditor takes exception to it. When I read this statement, I say this statement is clearly wrong and I would appreciate it if you would apologize to the committee for having made it. Will you do that?

**Mr King:** I apologize to this committee for any misunderstanding that my remarks may have caused surrounding three and a half days of testimony.

Let me repeat, in response to the direct question, that in 1988 a holding company was created by the Workers' Compensation Board, the numbered company 799549. It was incorporated to invest in real estate in accordance with the Workers' Compensation Act and the Pension Benefits Act.

Audits had been done by the Provincial Auditor—or under his direction, because there is an external auditor. They did review our holdings and our holding companies in the investment area. We got no question for the authority of 799 or other holding companies to hold real estate. I was personally very distressed to learn, through the report of Mr Peters, that we were in breach or contravention of Management Board directive 6.2, which had presumably occurred in 1988, by using 799 to hold the Simcoe Place investment.

We had mistakenly assumed that our authority to invest in real estate transactions like Simcoe Place had been reviewed or verified by the 1990 audit. We were wrong and we're taking every effort to ensure that we are in compliance with the Management Board directives.

The board of directors is considering a report on incorporating subsidiaries, the audit committee is discussing control issues surrounding subsidiaries, the investment committee is reviewing the performance of the subsidiaries and a new memorandum of understanding between the Workers' Compensation Board and the Ministry of Labour has been drafted and is ready for discussion with the Provincial Auditor.

**Mr Mahoney:** I know all of that. With respect, do



you stand by the statement I read from Hansard, where you had made the direct statement of fact that the audit had been done in September 1990 on Simcoe Place, through the audit of 799? Do you stand by that statement?

**Mr King:** I may have been misunderstood as to whether everyone knew that the eventual facility strategy was going to be held by 799.

**Mr Mahoney:** Mr King, you may not have held a card in any political party but, frankly, you're answering questions the way people expect politicians to answer them. Do you stand by the statement, sir, where you have said as a matter of fact that the audit was done in 1990 of 799 and that it was known that Simcoe Place was to be held in that company?

I'm really not trying to back you into a corner. It may appear that I am. What I'm trying to get you to do, very simply—and frankly I don't think the repercussions would go beyond here—is to admit you were wrong, admit that this statement that was made by you in your capacity as vice-chairman of the board misled the committee, intentionally or otherwise—and I'll give you the benefit of the doubt and say it was unintentional—and you're sorry that that happened.

Not for any misunderstanding, because you can't misunderstand this: This says an audit was done in 1990. There's no way to misunderstand that. It's simple, black and white: An audit was done; Simcoe Place was known. It's not true, sir, unless you're saying the auditor is saying something that's not true, which I assume you're not.

Do you agree with the auditor that this statement is not true, number one, that it misled the committee, albeit unintentionally, and you apologize for having said it? I don't know how I can be more fair than that.

1120

**Mr King:** The audit I was referring to having taken place in 1990 actually occurred in 1991. I was mistaken in the information I provided. It was done by Anderson Consulting. I didn't know the date. At the time, I made the statement that it was 1990. I made a mistake. The audit was done in 1991 by Anderson and company acting—and I'm not too sure of the precise terminology here, Mr Mahoney. I don't know whether it's on behalf of; we have an external auditor who works under the direction of—this may be more precise terminology—or under the umbrella of the Provincial Auditor.

So I did make an error in the date of the audit, which was 1991. I apologize for having made that mistake; it was unintentional on my part. But it was not an attempt, nor did it try to mislead this committee.

**Mr Mahoney:** For clarification, because it's very important: You said the audit you're referring to—that this statement is accurate if the date is changed from 1990 to 1991?

**Mr King:** I think it's confusing the issue as to the timing of this thing. The information I've just received was that the audit was in 1991, but that may have been when it was reported. It may have been signed off in 1991 and done in 1990.

**Mr Mahoney:** But it's the same audit.

**Mr King:** Yes, it's the same audit. I'll repeat that I have not misled this committee, that the numbered company 799 was a part of a general audit that was done. Admittedly, Simcoe Place was not at that time being held by that numbered company. I perhaps went too far in assuming that it was known that it was going to hold Simcoe Place, but I deny any attempt to purposely mislead.

**Mr Mahoney:** I said "unintentional."

**Mrs Margaret Marland (Mississauga South):** Mr Chairman, I just want to make it very clear why I've stepped out of the chair this morning, which I'm entitled to do at any point of this committee's deliberations.

I did not step out of the chair when we were hearing from the WCB in the initial reviews, but I'm doing so now because Mr King has referred back to the January meeting of the public accounts committee, which is a committee I am a member of, and it is the committee where I was the committee member who asked Mr King how many legal opinions they had as to whether or not the WCB could go ahead to be involved with an investment company in real estate and whether or not that contravenes section 64, section 64 being that section which required the board, if it chose to go that route, to get an order in council to do it.

What happened was that some time during the afternoon—and certainly not at 6 o'clock; as I recall, it was some time before 4 o'clock—I asked Mr King if he would provide the legal opinions that the board had obtained, that had been paid for through public money, to the public accounts committee, at which time you said yes, you would, and I asked how many there were and you said several.

When you came the next morning with one legal opinion, I suggested to you, Mr King, that it was a matter of convenience that you had been able to bring one legal opinion and it happened to be the legal opinion that supported what you had gone ahead and done. I said to you that perhaps there were no other opinions except opinions that did not agree with the position the board had taken in going ahead with the building. You said, "We do have other opinions," and I said it was pretty difficult, and it still is difficult for me, to think that you have your legal opinions in different files; the ones that are for what you've done and the ones that were against what you did in separate files.

You referred this morning to the fact that you were accused of lying. In fact, you subsequently sent me a letter, as I recall—which I don't have with me this morning because I didn't intend to speak this morning—where I think you challenge me to repeat my comments outside of the committee room because you said that you took strong exception to the fact that I was suggesting that you were lying.

I feel very uncomfortable about the fact that you have now, in anybody's words, misled—whatever words you want to use; we're playing semantics here—two committees because you did tell the standing committee on public accounts that you had several opinions, and



"several" certainly would mean more than two. You produced one opinion. At that time, I said something about, "Well, why wouldn't you have your legal opinions all together?" and you said you didn't have time to get them.

It's still hard for me personally to believe that you wouldn't have those legal opinions in one place, and I still feel, as a member of the public accounts committee—which subsequently was closed down by the NDP government members who passed a motion to say there was to be no more discussion about the WCB building, no matter that it's a \$180-million boondoggle for the taxpayers of this province at a 20-year mortgage at 10¼% mortgage interest rates, which was questioned by the Provincial Auditor. The Provincial Auditor did explain that he was very concerned about that kind of interest rate and that kind of commitment for 20 years.

Also, back in January, when the Minister of Labour was asked what he thought about this building going ahead, he said—and I don't have the notes with me—something to the effect that he didn't know it was progressing so far, and this was in spite of the fact that the WCB board sends the minutes of its meetings to the minister's office on a regular basis. So somebody in the minister's office had obviously miscued and not read these minutes and certainly not informed the Minister of Labour that it was going on. Also, even the Treasurer at that time said he'd like to look at this decision to build this ivory tower for the WCB, that he'd like to look at it again.

The point is that when we were talking about it in January, the final contracts, as I understood, had not been signed. What really sticks in my craw is the fact that in January we had an opportunity as legislative members and responsible committee members of whatever committee we're on to save this project from going ahead at this time with that kind of 10¼% mortgage for 20 years, and it all pivots on whether you had a legal right to do it under section 64.

I think it's ironic that you're telling the committee this morning that you asked the auditor for his legal opinions. The point was that you told the public accounts committee that you had several legal opinions and you didn't produce them the next morning. You only produced the one that was in favour of your position. Under section 64, it's not difficult to understand that you're not able to form a numbered company to invest in real estate unless you have an order in council. You didn't have an order in council and the Minister of Labour didn't even realize that you were that far along with this project.

1130

So I still consider that you have misled the public accounts committee by what you stated in January, and you said, "We only met the next morning until noon." I don't remember the hours the next day. But it's not good enough that you say you didn't have an opportunity to bring those legal opinions. You did; you brought one that was in favour.

Frankly, I think that the whole thing about this \$180-million ivory tower for your board is a black mark on this province at a time that the taxpayers in Ontario

simply couldn't afford it. I've heard before that you say, "Well, it's not the taxpayers' money." I don't know who you think business and industry that pay the assessment towards the operation of compensation for workers in this province—

**Mr Mahoney:** Mr Di Santo said that.

**Mrs Marland:** Who pays for it?

**Mr Mahoney:** You said that.

**Mrs Marland:** Everybody pays for it and everybody is paying for this building. The crime is that there are still workers in this province who can't get legitimate settlements that they're entitled to because the process takes too long and it isn't working.

On top of that aspect of your operation, we've had to deal with this building which you haven't chosen to deal with up front and now it's just sickening in fact. In my opinion, you have misled two committees. You can play all these words about misunderstandings, misinterpretations of what you said. I'm just an ordinary member and I sit in committees, as I did in public accounts in January, and I listened to what you said. That's all I can do.

When you say you have several opinions and you don't produce them after we ask—why did we ask for them? Because we wanted to see how many firms and which firms they were that said it was okay to go ahead in spite of the fact of not having the order in council.

I'm still very sick about this whole affair of this building because I don't think that, as the vice-chair of administration for the Workers' Compensation Board, you have been dealing responsibly with this Legislature from your position.

**Mr King:** I've already gone through the events of January and I'm sorry that I couldn't produce in the time lines available.

**Mrs Marland:** Why couldn't you? Where are they filed?

**Mr King:** Not everyone in the Workers' Compensation Board is at the same location. One of the decisions was an investment decision and one of them was a tenancy decision, and our investment offices are not in the same building as our tenancy offices. We do have different offices. I won't go into it.

As I said, I stayed behind to try to find out how to get the information to the committee, but I apologize. I didn't get it to you within the time frames. Let me also indicate to this committee that, in hindsight and having the advantage of having read Mr Peters's report, having read his findings about the spirit of the law, I certainly would have learned a lesson regarding accountability and it would be certainly my intention that if I'm ever advising the board of directors on a matter like this, we would go and seek cabinet approval under section 64.

**Mrs Marland:** You have learned a lesson and it has cost this province possibly \$180 million, because perhaps you may not have received an order in council; in other words, approval of the cabinet. Certainly from the comments by Mr Mackenzie, the Minister of Labour, and by Mr Laughren, the Treasurer, they had second thoughts.

In fact, everybody was suddenly scrambling to go



through minutes that they had. They were trying to take it back and blame the Liberals. At one point, in one of the answers I heard in a scrum with Mr Mackenzie he was saying, "Well, of course, if you do read the minutes, it was actually approved by the Liberals." The Liberals did not sign the final document that approved this project going forward.

**Mr Mahoney:** Which is totally wrong. Right, Mrs Marland?

**Mrs Marland:** What would you tell us today? Would you tell us today that you have several opinions that do support the right of the board to ignore section 64 without an order in council?

**Mr King:** I don't want to get into numbers here but there are at least three legal opinions that the Workers' Compensation Board has got. There is the opinion of Aird and Berlis of February 18, 1991; of Stikeman, Elliott, May 6, 1992; and Weir and Foulds of May 7, 1993, indicating that we were not required to go to the provincial cabinet under section 64.

**Mrs Marland:** What was the date of the 1993 legal opinion?

**Mr King:** May 7, 1993.

**Mrs Marland:** Very interesting. After I asked you the question in January. I asked you in January how many legal opinions you had. Your answer wasn't two; it was several. So today you're citing three and one of them you received four months after I asked you the question. Very interesting.

**Mr King:** I had met with Weir and Foulds long before May 7, 1993, as part of my own duties as vice-chair of administration coming new on the scene. I had them go through all of the documentation and give me verbal advice as to whether or not this was a legitimate deal. I received that verbal advice.

**Mrs Marland:** When did you receive it?

**Mr King:** That advice was put in writing May 7, 1993. The reason we were able to get it in writing quickly was because they had previously reviewed the deal.

**Mrs Marland:** So would you agree that you misled the public accounts committee in January when you said you had several legal opinions and that you would agree to produce those for us? In fact, you had two.

**Mr King:** No. I'd previously indicated there was an internal legal opinion from our own legal branch. There was the opinion of Aird and Berlis and there was the opinion of Stikeman, Elliott.

**Mrs Marland:** I think if you re-read Hansard, from my questions we weren't talking about internal legal opinions, because in order to protect the taxpayers, obviously, we're interested in external legal opinions.

**Mr King:** I have my response in January in Hansard and the question was: "Based on three legal opinions, am I correct?"

"Mr King: Yes. I said two and possibly three."

**Mrs Marland:** Right. What does "possibly" mean? Are we into this realm of misunderstanding now? I'd like to know what "possibly" means. Does it mean that there

was one or not? Or does it mean that in May of this year you decided you'd better get it in writing?

**Mr King:** Some time prior to May of this year, the Provincial Auditor suggested that we receive a legal opinion on what I'll call the "blanket," meaning both the investor and the tenant deal and get that in writing because, as I recall, an oral opinion was not sufficient from him to deal with. Therefore, we sought that in writing.

The reason I answered "two and possibly three" was because I knew of the two. I knew of the Aird and Berlis and of the Stikeman, Elliott. I didn't know whether the internal one would suit the purposes of the committee or not because it may not have spoken to the point of whether we had to deal under section 64.

**Mrs Marland:** Well, you said you'd talked—who is the third one that you said you talked to? You said you knew of two.

**Mr King:** Weir and Foulds I talked to prior to the spring of 1992.

**Mrs Marland:** So you did—

**The Vice-Chair:** Mr Marchese, you're next on the list. Sorry, Mrs Marland, your time has run out.

**Mr Marchese:** I want to just make reference to a recommendation made by the auditor on page 14 and would ask Mr King to respond to it as soon as I've read this into the record.

Recommendation 14 says:

"While preserving and safeguarding the legislated autonomy of the WCB for most of its activities, the powers and duties of the board of directors of the WCB should be reviewed and revised where necessary. There should be an explicit statement in the memorandum of understanding between the minister and the WCB that the powers of the WCB are limited to those stated in the Workers' Compensation Act and that the board of directors and senior management are responsible for obtaining good value for money in transactions of this kind. The appropriate extent of the WCB borrowing power should also be defined.

1140

"Measures should be taken so that a schedule 3 agency cannot use a complex commercial arrangement rather than seeking cabinet approval. These measures should restructure the accountability of the WCB to the minister to ensure that the WCB's interpretation of its statutory authority is acceptable to the minister and the WCB adheres to all Management Board of Cabinet directives for schedule 3 agencies and any other directives that the minister believes should apply to the WCB. These should be detailed in the memorandum of understanding between the minister and the WCB. The memorandum of understanding should also be updated," which I touched on the last time.

Could you comment on what you're doing with respect to these recommendations made here?

**Mr King:** Upon receipt of the Provincial Auditor's report on the facility strategy, it was very apparent in its first-draft form that we had got to do several things to



meet the recommendations that he brought forward.

I've commented that we have agreed with the recommendation to bring back the detailed costs in the analysis in 1995 or 1996—I forget the precise time frame—to the public accounts committee and it can make a judgement as to the value of the operation to the WCB, and to the province presumably.

Secondly, we did agree totally with the recommendation that we do a full report to the minister and the cabinet on the economics behind the building.

The third area you're covering is the so-called accountability through the ministry of the agency. That, in my view, is as serious as any of the three recommendations, perhaps the most serious one, because I think that's how we can try to assure the Legislature and the legislators that we are accountable, that there are rules of accountability that we clearly understand and that legislators clearly understand.

That's the work the Deputy Minister of Labour and I have been working on and that is the work we are going to proceed to meet with the Provincial Auditor on on November 24, because it's a very complex issue. It involves powers of the board of directors: Should there or can there be limitations on the board of directors? What limitations can there be in a memorandum of understanding? Where does the law perhaps have to be looked at in terms of the accountability of the WCB for its actions? Action is taking place on numerous of these.

I've already indicated our board of directors is dealing with the incorporation of subsidiaries. The audit committee is looking at the control issues with respect to subsidiaries. The staff of the Ministry of Labour and the WCB have been working on a memorandum of understanding to cover the very points you raised in the statement you just read.

We maybe don't have it right yet and we would accept valuable critique from the Provincial Auditor on where we can improve the accountability framework. I believe one of the members here indicated that they expect a more active role for the Provincial Auditor. I think that's what we're trying to respond to: How can we be more accountable? We're in total agreement with that and are working very hard to satisfy that.

**Mr Marchese:** I should say that on the issue of accountability, most of us, irrespective of political parties, are interested in how agencies become more accountable, more visible, to the public, and procedures for the public to be able to respond to what you are doing or not doing.

I, as one of the members here, want to suggest that is the big concern to us. Clearly what you're saying is that you're dealing with that in terms of powers of the board, limitations the board might have through a memorandum of understanding and so on.

You'll be meeting on the 24th with the auditor to talk about that. There is nothing specific about it that you can either speak to or raise at this time. Is that the case?

**Mr King:** I do have a general outline of the sorts of things the auditor has called for in terms of the accountability framework. We've identified, through both the ministry and the Workers' Compensation Board, those

things that we can address by a memorandum of understanding.

But given the nature of the law, of the Workers' Compensation Act, there are some issues that we cannot deal with through a straight memorandum of understanding because if the board is given absolute jurisdiction in law it may not be prepared to see that fettered in some way through a memorandum of understanding which can't supersede law.

That's the very thing we're trying to work our way through. Here is an example of the guiding principles, though.

**Mr Marchese:** I was about to ask you. Go ahead.

**Mr King:** The Workers' Compensation Board recognizes the government accountability structure and the WCB's relationship with government, the minister and the cabinet and the Legislative Assembly. So we recognize we're accountable. We're accountable to the stakeholders as well in consultation and we'll operate in a cost-efficient and economical manner: service quality, excellence in management.

The sorts of things that you were reading off, value for money, these things are contained in our initial draft. But I hesitate to table this until we've had discussions with Mr Peters to see where we might make improvements. But it's all there ready to go forward for that discussion.

**Mr Marchese:** I'd be interested to understand some of the matters that are raised by the auditor which are not covered by the memorandum of understanding. You might, for example, define the appropriate extent of the WCB's borrowing powers or the WCB's interpretation of its statutory authorities acceptable to the minister. I think the memorandum of understanding may not cover those. Are those the kinds of examples that need to be dealt with through a new rewriting of a memorandum of understanding?

**Mr King:** Under law the Workers' Compensation Board is given absolute jurisdiction as a quasi-judicial body to interpret law save for some very narrow areas. Therefore, although I'm not a lawyer, it would be my opinion that the WCB would not voluntarily agree to fetter its absolute jurisdiction.

But the WCB recognizes that senior government may wish to somehow fetter that jurisdiction and that's what we're talking about in terms of accountability. Discussions are under way as to whether you can do this through regulation or whether a change in law necessary.

I can't tell you where we're going with that, except to say it's on the table for discussion, and those are areas where we are apt to receive advice from Mr Peters on how we proceed if we don't believe that legally the board can give up or fetter discretion it has under law.

Those are all under discussion, though, and have been identified in the memorandum—not in the memorandum, but where we cannot deal with them in the memorandum, we realize we're going to have deal with them at a different forum.

**Mr Marchese:** I just want to thank Mr King for appearing. I think he has answered our questions and I believe he has answered the questions of the opposition



as adequately as can be. I would recommend, in thanking Mr King for appearing, that we move on to deal with the subcommittee report. I move that.

**The Vice-Chair:** Thank you. I'll get the consensus of the committee.

We have about 10 minutes left and we have a subcommittee report to deal with. It will be up to the committee if you want to continue for two questions, two minutes each, or if you want to move on, adjourn this portion and deal with the subcommittee.

**Mr Mahoney:** I have some questions of Mr Di Santo and have not had an opportunity to put them. I'm sure he would like to hear them. I was anticipating having that opportunity.

**The Vice-Chair:** It's up to the committee, if you want to continue for a question each or if you want to move on to something else. We could argue about it. We might as well give each two minutes and it'll be over.

**Mr Marchese:** If we still have certain questions in two minutes, I suppose we could try.

**Mr Mahoney:** I have questions for Mr Di Santo. I'm going to need more than two minutes.

**The Vice-Chair:** The committee will determine how long we have to deal with it; it's up to the committee, not up to me as Vice-Chair.

**Mr Waters:** I have an appointment, Mr Chair.

**Mr James J. Bradley (St Catharines):** You're not going to play the blocking game over there again, are you?

**Mr Marchese:** Two minutes each, Mr Chair?

**The Vice-Chair:** Okay, two minutes each. I think that's fair, due to the time.

1150

**Mr Mahoney:** Two minutes. You're going to have to give me really short answers and I'll try to give you short questions.

The statement in Hansard that I referred to, Mr King's statement of fact, Mr Di Santo, that an audit was done in 1990, that the audit included Simcoe Place, that it included 799, the company that it was ultimately held in, is a statement of fact that's there in Hansard.

The auditor has taken exception to that statement and said that it is not factually correct. Do you agree with the auditor or do you stand by Mr King's statement as the chairman of WCB?

**Mr Odoardo Di Santo:** As Mr King has told the committee repeatedly, we have accepted all the conclusions and the recommendations of the auditor—

**Mr Mahoney:** That isn't what I asked you, sir.

**Mr Di Santo:** —and we are working on them.

**Mr Mahoney:** In two minutes, I wish you'd answer my question.

**Mr Di Santo:** Yes. That's a specific question that I will answer this way: I think Mr King clarified that in 1990 in fact the Provincial Auditor did not audit Simcoe Place because—

**Mr Mahoney:** So if he did not audit Simcoe Place, then the clear follow-up would be that the statement is

incorrect. The statement that appears in Hansard from Mr King is incorrect.

**Mr Di Santo:** For sure, the honourable member will allow me to complete my answer. I agree that, taken literally, this statement is incorrect, but it has to be seen in context. I think Mr King tried to explain this morning that there was some confusion in the auditing of the investment fund of the Workers' Compensation Board. In fact there was a review of the fund related to the year 1990—

**Mr Mahoney:** I don't wish, in the short time we have, with due respect, you to give me Mr King's answer.

**Mr Marchese:** On a point of order, Mr Chair.

**Mr Mahoney:** You're giving me Mr King's answer. That's not what I'm asking for.

**Mr Di Santo:** I'm not—

**Mr Mahoney:** I'm asking for your opinion as to whether the statement is correct or incorrect. You have said it's incorrect and I accept that.

**Mr Marchese:** You should take points of order, Mr Chair.

**Mr Mahoney:** My next question is, since Mr King won't apologize, will you as the chair apologize for this committee having been misled by that statement by Mr King?

**The Vice-Chair:** That's the last question. Now we'll wait for his answer.

**Mr Mahoney:** Will you apologize?

**Mr Di Santo:** My answer is that, given that there were two different reviews of the—

**Mr Marchese:** My point of order—

**Mr Mahoney:** What are you so protective about? These are big boys here. They can handle themselves.

**Mr Marchese:** You should allow the individual to answer the question—

**Mr Mahoney:** They can take care of themselves. They don't need you standing in like some kind of a hack trying to defend them.

**Mr Marchese:** —and the chance—

**Mr Mahoney:** They're here. We don't want to hear from you.

**Mr Waters:** You don't want to hear from anybody.

**Mr Marchese:** You don't want to hear from anyone, Mahoney.

**Mr Mahoney:** I want to hear the chairman apologize.

**The Vice-Chair:** Obviously, he's not doing it.

Mrs Witmer, you have the next time.

**Mrs Witmer:** I have a question for Mr King. I heard a conflicting statement. I heard you say, Mr King, that you were a professional appointment based on your merit and ability to do the job. I heard Mr Marchese say that indeed you were a political appointment. Would you agree with Mr Marchese that your appointment was a political appointment?

**Mr King:** I had previously agreed that the appointment is made through an order in council, which in and



of itself is through the cabinet or the Lieutenant Governor, but that I'm a professional civil servant.

**Mrs Witmer:** So you do not believe you're a political appointment, as Mr Marchese has indicated you are?

**Mr King:** I'm a government appointee. I'll certainly bring my résumé and go over it with the committee members if they wish. Governments have sought me out—I haven't necessarily sought them out—because of a certain expertise I own.

**Mr Mike Cooper (Kitchener-Wilmot):** Just to continue on with that, let's be perfectly clear that we have set up the committee where most of these appointments are reviewed now, something that's never happened in the past.

**Mr Bradley:** This committee is a joke.

**Mrs Witmer:** It's a joke.

**Mr Cooper:** But what I'd like to say right now is workers' compensation has been in the news all of 1993.

**Mr Bradley:** You've got six broom handles there just sweeping things under the rug.

**Mr Cooper:** We went through the standing committee on public accounts and the Workers' Compensation Board was there; the standing committee on government agencies and the Workers' Compensation Board was there; the standing committee on estimates and the whole committee revolved around workers' compensation; in the House we've had question period filled with workers' compensation; we've had the Premier's Labour-Management Advisory Committee set up. Obviously there are problems, perceived or real, at the Workers' Compensation Board.

The workers' compensation people, both Mr Di Santo

and Mr King, have come to committees and have always been as forthright as they could possibly be. Obviously, what they've done is given answers that weren't satisfactory to the opposition. It was probably political, because they don't agree with what's going on at the Workers' Compensation Board. They've made it perfectly clear that they want to privatize workers' compensation.

**Mrs Marland:** How about misleading the committee?

**Mr Cooper:** I would suggest that we should free these people up to get back and do what they've been paid to do, and that's fix the problems at the Workers' Compensation Board, which obviously they've been trying to do because they've been very forthright today in saying they've been reacting to the auditor's report and trying to fix things. I think we should let them get on with their business and get them out of committee—

**Mrs Marland:** So you think it's okay to lie to a committee.

**Mr Cooper:** —because obviously we're in a political dialogue here and we're solving nothing.

**The Vice-Chair:** Thank you, Mr Di Santo, and thank you, Mr King, for appearing before the committee.

#### SUBCOMMITTEE REPORT

**The Vice-Chair:** This committee will now deal with the report of the subcommittee.

**Mr Waters:** I'll move its adoption.

**The Vice-Chair:** Mr Waters moves its adoption. All those in favour? Opposed? It's carried.

This committee adjourns now until next Wednesday. I believe the subcommittee will meet next week at a quarter to 10. Thank you very much.

The committee adjourned at 1156.











## CONTENTS

Wednesday 17 November 1993

<b>Workers' Compensation Board</b> .....	A-303
Odoardo Di Santo, chair	
Brian King, vice-chair, administration	
<b>Subcommittee report</b> .....	A-316

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
  - Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
  - Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
  - Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Cooper, Mike (Kitchener-Wilmot ND) for Mr Mammoliti  
Mahoney, Steven W. (Mississauga West/-Ouest L) for Mr Bradley

### **Also taking part / Autres participants et participantes:**

Bradley, James J. (St Catharines L)

**Clerk pro tem / Greffier par intérim:** Arnott, Doug

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service

C17201  
XC17  
-G52

Document  
Publication



A-20

A-20

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 24 November 1993

# Journal des débats (Hansard)

Mercredi 24 novembre 1993

**Standing committee on  
government agencies**

**Comité permanent des  
organismes gouvernementaux**

**Ontario Food Terminal Board**

**Commission du Marché des produits  
alimentaires de l'Ontario**

Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 24 November 1993

*The committee met in closed session in room 228.*

1037

## ONTARIO FOOD TERMINAL BOARD

**The Chair (Mrs Margaret Marland):** I would like to call this meeting of the standing committee on government agencies to order. We are commencing the review of the Ontario Food Terminal. I would welcome Mr Gary Ireland, the chair; Ms Grace Dekker, the vice-chair; Mr Carsley, general manager; and Mr Northcote. I'm only looking at names on the list here. I understand you're the lawyer with Shibley Righton.

Perhaps, Mr Ireland, you could introduce the people in the seated positions so the committee members know who is who. We then invite you to go ahead with your presentation to the committee. We will wait until you've completed your presentation for our questions.

**Mr Gary Ireland:** I'll start by introducing them. Obviously you can tell that we have a very committed, dedicated board, because they're all here this morning. I'm not sure how many you had the last time, in 1988; I understand two or three of them were here. We have Diane Baltaz, Helen Lahti, Cameron Rundle, Harold Brown and, of course, Marianne Holder representing the ministry, and also Diane Coates Milne, who is acting as a resource person through the ministry.

**The Chair:** Could you introduce the people sitting with you so we know who is who, please.

**Mr Ireland:** Oh, I'm sorry. Okay, with staff we have assistant general manager Bruce Nicholas; Bill Carsley; as you mentioned, Bill Northcote, our lawyer; Grace Dekker, our vice-chairman; and Jeff Wilson, a board member.

**The Chair:** And you're Mr Ireland.

**Mr Ireland:** I'm Mr Ireland. I guess you've all received a copy of the chairman's opening comments, opening statement.

**The Chair:** We're just going to distribute them to the committee now, so please go ahead.

**Mr Ireland:** It's whatever you wish, Madam Chairman. If you want me to read them, I will. I guess if you haven't seen them, maybe I should. I'm just going to go through and touch on them so we have more time for questions.

**The Chair:** I would just proceed, Mr Ireland. If you wish to highlight them or read them verbatim, that's up to you.

**Mr Ireland:** Okay. I'm going to try and just go through quickly and touch on them and then we can kind of open it up, if that's okay. If there's any particular thing you wanted me to go through in more detail, then I can do that. I'll just start out.

The Ontario Food Terminal is a wholesale produce market located on a 39-acre site at the eastern edge of Etobicoke. It has 475 grower tenants and 28 major

warehouse tenants. Then, on the remainder of the ... page, it goes into the board objectives: ensuring that the market flows efficiently and high-quality produce is available to the consumer at competitive prices; providing a central warehouse for Ontario growers and produce wholesalers to be able to sell directly to wholesale and retail; controlled buying hours, regulated shipping policies, a competitive marketplace where buyers and sellers can freely negotiate price in terms of sale; maintaining a good working relationship with wholesale tenants; making sure the market is properly maintained so that retailers and institutions can continue to use the market as a major source of fresh produce; and certainly making sure that the cash flow is sufficient to cover all the expenses, capital and maintenance expenditures.

Then it gets into where the board gets its revenue from. It's broken down into nine revenue-producing areas, the main areas being rents from the farmers' market and the A and B warehouse units, fees from cold storage and the entry toll charges.

It's the largest wholesale produce market in Canada, tonnage approximately 825,000 tonnes; 20% to 25% of the fresh produce grown in Ontario is sold at the terminal, with approximately 35% of the sales being Ontario-grown produce. Employment, direct and indirect, is estimated at over 15,000 people. The terminal's main trading area is the province of Ontario, Manitoba, parts of Quebec and the Maritimes.

There are more than 6,000 buyers registered with the food terminal board. The most important group of buyers at the terminal are the independent grocer retailers in Ontario, particularly in the Toronto area, of course, many of whom come every day. Major chains, while they're still there and are still visible by their existence there, are buying more and more either through direct store delivery or warehouse delivery.

The board is one of the largest taxpayers in Etobicoke, with an annual tax bill of \$1.3 million.

Certainly the board has made considerable progress in recycling its waste, approximately 6,500 tonnes per year; 85% of the waste produce is recycled either for cattle food or composting and all the wood and cardboard waste is also recycled.

Of course, there were a number of recommendations that came out of the committee meetings back in 1988. Many of these have been acted upon and implemented.

At that time the committee recommended the board investigate the background of any new buyer or business operating at the terminal in order to be able to limit the number of leases one business can own to three. The board now follows this recommendation, and each prospective leaseholder has to go through a thorough check before being approved by the board. Now, as I say, it limits what the leaseholder or anyone can lease to three.



The food terminal proceeded with plans to build the five new C units and there were five prospective tenants who signed agreements to lease. However, three of the companies decided not to proceed so the units were never built. That was one of the recommendations, number 18.

Section 12 of the Ontario Food Terminal Act was removed via a private member's bill in late 1988. That was to do with the operation of any other wholesale produce market within the Toronto area.

The Ministry of Agriculture and Food now appoints a buyer to the board, along with a consumer representative and a representative from the community, which was recommendation 21.

The interests and concerns of the warehouse leaseholders are now conveyed to the board through a tenants' advisory committee, and the farmers' market leaseholders also have formed a similar committee that now meets with the board on a regular basis. These recommendations were recommendation 22.

The board has also improved its traffic flow, making it easier to move around the market. This has worked extremely well. Traffic jams have basically become non-existent, which was recommendation 24. That has been received very positively among all the people at the market. They say that's a heck of an improvement.

**Mr Allan K. McLean (Simcoe East):** Unless it's 3 o'clock in the morning.

**Mr Ireland:** Yes. The board's created a monthly pass that allows Ontario growers to pay by the month for using the farmers' market. This allows growers who have short-season crops such as strawberries to pay on a user basis only, which was another one of the recommendations, 25.

Certainly, the board is anxious to work with the committee in order to help the committee develop recommendations that will enhance the operation of the terminal.

I guess that's quickly going through the opening statement. It's certainly your agenda. Of course, we had received a copy from the research officer regarding a number of questions. We have responded with answers to those questions, which we have prepared for overhead if you wish, depending on how you would like to proceed.

**The Chair:** What is the wish of the committee? I would think perhaps they'd like to proceed. Would you like to proceed with that?

**Mr Alvin Curling (Scarborough North):** How long is it? How long is it going to take?

**The Chair:** How long is it, Mr Ireland? Mr Curling is asking.

**Mr Ireland:** Well, there were quite a number of questions. How many overheads do we have, Bill?

**Mr Bill Carsley:** I think there are 14 or 15 overheads; it's fairly lengthy.

**Mr Ireland:** Are there any specifics that you would like to—

*Interjection.*

**The Chair:** You'd just like them to proceed and we'll ask the questions at the end, is that what you're saying?

**Mr McLean:** I'd like to ask questions now about a couple of things.

**Mr Rosario Marchese (Fort York):** It may be useful, given that they've prepared this, to do it. The point is to do it as quickly as we can so that we can get to questions.

**The Chair:** Is there a consensus on that? Agreed. Go ahead, please.

**Mr Ireland:** How would it be then, as we show them, if there are any specifics you want to deal with on a certain recommendation, we can do it at that time if you wish?

**Clerk of the Committee (Ms Lynn Mellor):** Do you have hard copies of those?

**Mr Carsley:** Yes, we have copies. We may have to do it from the copies, because I don't think this is going to work very well.

**Mr Bruce Nicholas:** This is an aerial photograph of the Ontario Food Terminal looking from the west towards the city. It's bounded on this section here by the Queensway. This section here is Parklawn Road and, as you can see, up here is the Gardiner Expressway.

The market is divided into nine cost centres. The most visible one is the parking deck structure here, which covers one half of the farmers' market. The farmers' market is this section here, the entire section, one half covered by the parking deck. These units down along this side here and this side here are A units, which we refer to as A units, and they have an office section above.

1050

**Mr Daniel Waters (Muskoka-Georgian Bay):** Can you hold it for a moment. I believe they have to hook you to a mike for the purposes of Hansard.

**Mr Nicholas:** Is that better? All right, I'll repeat it quickly. This section here is the farmers' market, covered one half by a parking deck structure. The sections along here and along here are A produce units. There's an office wing above which we call our annual office cost centre, on both sides. The units down at this end here and this end here are called B units. They're smaller units and do not have offices with them and they do not face an area in the middle here known as the buyers' court, where the buyers park their trucks.

This large building here, with the inclusion of this extra building on the end, is our common cold storage, which is in total 90,000 square feet of common cold storage. The units are relatively small in size, being approximately 2,000 square feet on the store level. That is insufficient for the amount of produce they bring in, so they make use of a common cold storage which the board operates for them to store their product in.

There's a very small rail track area left in the market which comes in right in this section here, into a house track area. Rail car traffic has dropped from the thousands to less than 50 a year; and we have a house track. The other house track on the south side has been filled in to accommodate a larger buyer parking area for trucks, docks for them to load the trucks, which is a recommendation. The smaller building out here is a maintenance sanitation garage.



The total site is approximately 40 acres. The farmers' market is approximately eight acres. The main gate is located up in this section here off the Queensway, with the main exit coming down here on to Park Lawn Road, which will go on to the major highways. The access to the parking deck is situated right here. That allows car vehicles to come into the market without disruption of trucks. Approximately one million vehicles enter and exit the terminal in a year. That is the major outlook.

We're developing this area down here for additional farmers' market parking and roadways, and this picture here was taken before we made the new roadway pattern. This area here, which looks like it's undeveloped, is now fully utilized and designated as either parking or roadway area. That is what has helped improve the traffic flow around the market. As well, the congestion here on the Queensway parking: The vehicles have been moved out and proper roadways have been designed such that trucks can pull in and back into the back of these units without interfering with the farmers or the buyer flow of traffic. That is a general detail of what the market represents. As you'll see, the farmers are basically a space on asphalt, either as small as 300 square feet, 10 by 30 deep, or as large as 550.

**Ms Margaret H. Harrington (Niagara Falls):** What is the building on the upper left?

**Mr Nicholas:** The building on the upper left is our neighbour; that is not our property. Our property line goes right along like this and across. It's owned by Oshawa Foods, and sometimes it's misinterpreted as part of the terminal.

**Mr Ireland:** Shall we proceed, Madam Chair? We'll start with the questions, okay?

**The Chair:** All right.

**Mr McLean:** There's a maximum of three units that can be leased or owned by any company. How many would fit in that category that own up to three?

**Mr Carsley:** There are at least, I would say, seven companies that have more than three units, but that was already in place before the committee's recommendation. Anybody who has tried to buy an additional unit beyond three has actually been told by the board that they can't do it.

**Mr McLean:** How many own more than three and what would be the maximum that one individual company would have?

**Mr Carsley:** Our largest tenant—Bruce, maybe you can correct me if I'm wrong on this—has slightly under about an 18% share of the total space, but part of that is in the B unit section that Bruce was pointing out. That's Ontario Produce, which is part of the Oshawa Group.

**Mr McLean:** Would that be half of the units?

**Mr Carsley:** No. In terms of the number of units, they have one A and six Bs; seven units. Some of them are smaller units.

**Mr McLean:** What would the next one to that be? How many units would it have, five or six?

**Mr Carsley:** The next one would be Dominion Citrus, and it actually has a sublet as well. They have six.

**Mr McLean:** Does Knob Hill Farms have any in there now?

**Mr Carsley:** No. Knob Hill was never a tenant, as a selling tenant. They do rent office space from us for their buyers.

**Mr McLean:** Are they not initiating to set up something in there?

**Mr Carsley:** They have set up a wholesale cash and carry at their location on Eglinton Avenue, which really has just started in the last four months or so. But they do sell produce there.

**Mr McLean:** Is the value still about \$1.5 million for some of those units? What is the value of them now? Are the A and B a different price?

**Mr Carsley:** Yes. The board doesn't always know all the details of how much money these units change hands for, but certainly during the main part of the recession, the unit that was sold went for far less than \$1.5 million, probably more in the range of about \$750,000 to \$800,000.

**Mr McLean:** It's less than they were five years ago.

**Mr Carsley:** That's right. In fact, we had an empty unit for almost a whole year.

**Mr McLean:** And that's why the 10 units were never built.

**Mr Carsley:** Certainly one of the reasons.

**Mr McLean:** The other question I have has to do with regard to the fact that it appears your profits are up. You had run a few losses for 1991-92, but in 1992-93 I understand you made a profit.

**Mr Carsley:** No, in 1992-93 we actually lost money too. We lost I believe \$68,000.

**Mr McLean:** Who covers your losses?

**Mr Carsley:** You have to look at it from the point of view of our total cash flow. We're not necessarily trying to make a large profit. As long as we have enough money through the cash flow from our depreciation, in particular, then we're able to cover the principal and interest on our loans and also our capital expenditures. We still have a good relationship with our bank. In the year we're in now, to date we're making \$193,000 so far, so we should definitely have a profit this year.

**Mr McLean:** I thought I saw where your revenues were up by about \$1 million, from \$5 million to \$6 million somewhere, and that your profit was over \$400,000.

**Mr Carsley:** Maybe that's on an older one. They wouldn't have that yet, but I would have thought you would've been provided by the research people with our latest financial information.

**Mr McLean:** How much money is the social contract costing you?

**Mr Carsley:** It's \$72,000, 4.4% of our wages.

**Mr McLean:** If you're losing money, how are you going to pay that?

**Mr Carsley:** The point is that we're making a profit now of \$193,000. We're finding a considerable saving on our waste removal, so we do expect to have the funds to



be able to pay that. I think our chairman is currently waiting for a letter from the Treasurer regarding the social contract, because we don't receive and never have really received any funds from general revenue. We carry ourselves. Really the only money the board did get from the government was a BILD grant to help finance the building of the parking deck. Our board is very firm in stressing that it doesn't think we should be part of the social contract.

1100

**Mr McLean:** So your staff is down from 41 to 39. Do you plan any further reductions?

**Mr Carsley:** To 36, actually.

**Mr McLean:** Do you plan any further reductions?

**Mr Carsley:** In order to keep up our level of service, I don't think we can make any more reductions.

**Mr McLean:** Thank you. I'll pass for now, Madam Chair. Maybe some others have some questions.

**Mr Waters:** You said you don't know the value of these units when they change hands. I find it amazing that people have the ability to sublet or whatever and you, as the board that runs the place, have no idea of what's going on in there.

**Mr Carsley:** Well, we do have a fairly good idea, yes. But the last situation that took place was that there was a trading of some units as well, so we're not exactly sure what the final figure was. The one I mentioned was, we thought, about \$800,000.

Certainly we know what all the sublets go for, but you must remember that if it's an exchange of shares, then the board does not get an opportunity to rule on the assignment because the corporate entity stays the same. It's only when the assets change, when the assets are purchased.

**Mr Waters:** I noticed in some of the background papers legislative research that did you have a drop in tonnage. Then on page 2 you talk about major chain stores buying their produce direct and not using the food terminal. Is that something new? Is that why there is a drop in tonnage, or part of the reason why?

**Mr Carsley:** No, I think the drop in tonnage is probably mainly due to the recession. It's certainly part of it, and some of the larger buyers, the independent chain stores, are buying more product direct. But we still have 6,000 listed buyers, and the backbone of our buying group is really the greengrocery stores from Oshawa through to Niagara Falls. The major chain stores haven't been a factor at the terminal since about 1977 or 1978. They still buy there, but not a great deal.

**Mr Waters:** Somewhere in the papers I remember reading something about—I gather it's the C units that you didn't go ahead with. You had pre-sold tenancy to five or six people.

**Mr Carsley:** Five companies.

**Mr Waters:** They had put money into it up front and there was some discussion about whether they should get their money back. I saw that in one of the background papers I was looking at.

**Mr Carsley:** That's correct. This is before the courts

at this moment, so I don't think I can really comment on it.

**Mr Waters:** I just remembered seeing that somewhere. I have more questions back here.

**The Chair:** I have three other speakers, if you'd like me to move on. I have Mr Cleary, Ms Carter and then Ms Harrington.

**Mr John C. Cleary (Cornwall):** I've been speaking to some companies that probably get their produce from a province other than Ontario. They tell me that this past year has been an excellent year for them, that they had their dull moments but that this past year it's really picked up. Do you find that's the case too?

**Mr Carsley:** In our farmers' market section it would appear that the growers have had an excellent year. The prices have been better on most commodities, and our figures show that the farmers' market certainly has been more active this summer than it has for the past two summers.

**Mr Cleary:** One other question I have: Is the percentage of non-Ontario produce that's handled at the terminal holding about the same as it always has been, or is that up or down?

**Mr Carsley:** We feel that our share of market for Ontario—I'm talking about the total terminal, not just the farmers' market but the warehouse part of the market and the farmers' market—the Ontario part of that, depending on the year, ranges between 30% and 35% of our total sales. It's hard for us to say whether that's gone up or down. My perception is perhaps that share probably has gone down a little bit, the total Ontario sales.

**Mr Cleary:** There's another thing I was going to ask. I'm not exactly sure how it's handled at your operation, but I know of a small operation in eastern Ontario where, over the period of a year, they have a lot of food that may be discontinued lines and different things like that. Sooner than taking it to the dump, which used to happen, they've been a great contributor to the food banks. I was just wondering if that would be the case in your operation too.

**Mr Carsley:** The Daily Bread Food Bank comes to the terminal on a regular basis, almost on a daily basis, and we also have Second Harvest coming to the food terminal on a less regular basis.

Our total waste produce as a percentage of our total tonnage is very small, I think under 0.5%, so we don't throw away very much. But the food banks do come to the terminal, and all our tenants have product from time to time for the food banks that might be slightly off spec or might be slightly aged but still all right for human consumption if it were quickly consumed.

**Mr Cleary:** That's discontinued lines too, or do you get into that?

**Mr Carsley:** No. A discontinued line would probably be more in the processing industry.

**Mr Cleary:** Those are my questions for now, Madam Chairman.

**Mr Ireland:** If I can add a little to Mr Cleary's question regarding the non-Ontario produce—



**Ms Jenny Carter (Peterborough):** I was going to ask about that.

**Mr Ireland:** Maybe I should leave that to your question then.

**Mr Jeff Wilson:** I'd like to mention, if I could, another initiative known as the Field to Table initiative, which has received a contribution from the government. It is attempting to provide affordable food in the inner-city, low-income areas of Toronto. The board is familiar with these types of initiatives and has been trying to incorporate them within the infrastructure we have to facilitate this, recognizing, as the honourable members mentioned, that it's an issue and we're trying to do what we can to contribute to a solution to the problems.

**Ms Carter:** We did touch on the question of where your produce comes from. You said that the proportion of Ontario produce hadn't changed very much, but it seems to me you're under several different pressures here and I'm just wondering how those are working out. For example, I understand the ministry would like you to have Ontario produce more or less exclusively at the farmers' market. We also have pressures to reduce barriers to interprovincial trade in this country, so obviously there'd be resistance if you tried to keep stuff from other provinces out. Then of course we have the free trade agreement and NAFTA coming up, which open us up to more importations from across the border. How are these three factors coming together and influencing what you see happening?

**Mr Ireland:** That's an excellent question. As I mentioned, we've got the total board here, so if anybody in the background wishes to respond at all, I guess they can feel free to do so.

**The Chair:** Definitely, as long as they come forward to a microphone.

1110

**Mr Ireland:** We view the Ontario Food Terminal, when we look at the total operation as far as the inside is concerned, the A and B units, that there's produce in there from virtually all over. The approach our board has taken and I believe previous boards as well and, as you have mentioned, that our provincial ministry has taken, is that we view that the original intent of the farmers' market was as a place for Ontario growers to market their produce competitively among themselves. You have times when product comes in from out of province, other provinces, supposedly out of season from our product. Who defines what is out of season and what is in season becomes an issue, and then you run into produce that comes from outside of Canada. It has been challenged before, and it's about to be challenged again.

It's a very serious issue, in our view. We met with the minister a year ago and he was certainly very supportive of our view. I feel he agreed with our view. We had examples from other provinces, for example, Quebec: You have the market in Montreal, and there the farmers' market is virtually designated for Quebec produce; it's for their producers.

This is just the view we take. If it's from out of province, whether it's from another province or from

outside the country, the US or wherever, our view is that it makes no difference, because it can be just as serious a problem whether it's another province or whether it's from outside the country.

In terms of a barrier to trade, we look at the terminal as a total operation. Certainly you have produce there on the inside, the A and B units, that is traded from wherever, from all over the world. I don't really see, based on that approach to the overall operation, how that could be viewed as a barrier to trade. It's only the farmers' market section that we feel is an area that was originally intended for a place for Ontario producers to market their produce.

**Ms Carter:** How would that work, for example, with something like strawberries? Would you have imports from elsewhere during our strawberry season or at other times, or how does that go?

**Mr Ireland:** Let's use California as an example. Obviously, their season is earlier than ours, and they would come in under permit to the market. Supposedly, that's till our season opens up and then ours kind of takes over. But then it comes to a very grey area, maybe more so interprovincially, about what's in season for them and what's in season for us.

**Ms Carter:** Do the local growers suffer from competition, from strawberries coming in during their own season? Does that come in sometimes more cheaply than the prices they charge, or do they have a fairly—

**Mr Ireland:** It can be a factor. If they were to come in at cheaper prices, and even prior to our domestic season if they were to come in at lower prices, then obviously that's starting out as the market price. When our product comes on stream, basically they've got to be competitive, so it's very difficult to all of a sudden jump prices if that's going to be the domestic price.

**Mr Jeff Wilson:** I think it should be added that as a whole at the food terminal, Ontario farmers are competing with the best of the world on an equal basis on what we view as the inside market, meaning the covered A and B unit stalls. The farmers' market is a different kettle of fish, as it were, in that that is where we are competing among one another—in other words, my strawberries against my neighbour's strawberries—where there is far more value applied to quality, freshness, appearance, what have you.

We're very concerned on the farmers' market that to date, where out-of-province product has appeared there, it tends not to meet those high standards we are trying to achieve through the competitive marketplace among ourselves in the farmers' market, to the point that it has been raised by resolution by the Ontario Fruit and Vegetable Growers' Association, representing over 10,000 fruit and vegetable producers in the province, to have the farmers' market itself designated as an Ontario-only farmers' market. That's been supported and is continuing to be supported by a number of specific commodities in the province, notably the Ontario Apple Marketing Commission.

**Ms Carter:** Is that likely to happen, that it will be restricted?



**Mr Jeff Wilson:** This isn't a new issue; it goes back as far as the early 1980s and was brought to a head in 1985 and 1987. Apparently, it appears to be easier to try and resolve this through a regulatory change as opposed to opening the act up. Our opinion, from what we've been told, is that it's going to take a substantive revision within the act, which isn't impossible, but it boils down to, is there the political will there to do it? The Ontario farmers are saying: "This is what we need. This is what we require. We feel it's a just request to ask that the act be looked at in order to accommodate these changes."

**Ms Harrington:** When you were just talking now about the farmers' market, that's not open to the public, is it?

**Mr Jeff Wilson:** No.

**Ms Harrington:** You mentioned 15,000 people in your initial presentation; the way it was put was that it provides direct and indirect employment to over 15,000 people. Obviously, those people would still be employed in the business in some way, even if there weren't a food terminal operating in the same manner as it is now. That's a very broad statement. Those people would have jobs, I'm sure.

**Mr Carsley:** Yes, many of them are store owners, for instance, that might have three or four people working in their store who would use produce as their main, shall we say, selling category. So that's how we arrived at that number. But I think we have about 1,500 people who work in the market directly, full- and part-time, and we have all the buyers who come in. On a busy day in the terminal, you could get between 3,000 and 4,000 people going through that place.

**Ms Harrington:** You mentioned 1,500. Who are those people?

**Mr Carsley:** Those people are directly employed at the terminal. We have 36 employees, but our tenants all have employees. The farmers have employees in their stalls, you see, and that sort of thing.

**Ms Harrington:** Okay, that makes it a little clearer.

**Mr Carsley:** All the main produce brokers for Ontario have offices at the terminal, so there is a large number of offices there as well.

**Ms Harrington:** I have a couple of comments, and then I'll ask another question. You were concerned about the impact of the social contract, the moneys you mentioned. Being from Niagara Falls, the area I represent, I've been in contact over the last while with the Niagara Parks Commission, and it's in the same situation. They don't receive any money from this government—I'm sure there are quite a few other examples of this as well—and yet they are contributing their amount.

**Mr McLean:** Are you sure?

**Ms Harrington:** Yes. In your efforts to promote conservation and waste reduction, from what I gather—we've got some background material—you've really done an excellent job over the last while. Have things really changed in the way you operate with regard to waste in the last, say, five to 10 years?

**Mr Carsley:** Very much so. To be honest with you,

at one time we took all our stuff to the Metro landfill. It was great when it was \$16.50 a tonne. But when it started to get up over \$100, no matter what, you couldn't go there any more; you couldn't afford to. Obviously, there's the social aspect of it too, but if you look at it from a straight economic point of view, we have to find other things to do. We have to recycle, so we really basically recycle almost everything now.

**Ms Harrington:** That's what we're trying to do, of course, with the rest of the whole province.

**Mr Carsley:** Yes. Certainly our operations manager has done a very good job in heading up this, and he's done a good job for us in helping us save money in this area.

1120

**Ms Harrington:** My question was on a different item, and that is the question of privatization. I just wondered how you viewed that. I notice that in the last year, I guess it has been, the Ontario Stock Yards are now going to be leased and creating a livestock industry trust fund. I'm just wondering if you had any thoughts on that possibility.

**Mr Carsley:** In the notes that we've prepared here, in the answers, those questions are addressed.

**Ms Harrington:** Yes. We didn't see those.

**Mr Carsley:** You've just seen those. In the last meetings with the committee back in 1988, I think Mr Runciman brought that up, that possibly privatization should be looked at. At that time, or just after that, a delegation went to New York City to see how they privatized their market there. Obviously, there are pros and cons to privatization. It's something that the board has not considered in depth really.

**Ms Harrington:** Okay. I'll leave it at that and I'll read your answers here. Thank you.

**Mr Curling:** Mr Ireland, I have before me a briefing note that came from the minister, and the question was put, "Why was the agency created?" Let me just read it, because I want to make a comment and ask you a question on that matter. It says:

"The board was created through the passage of the Ontario Food Terminal Act in 1946 with a mandate to acquire, construct, equip and operate a wholesale fruit and produce market in the municipality of Metropolitan Toronto or the regional municipality of York, and to acquire and operate such facilities for the transportation and handling of fruit and produce as may be necessary for the purpose of the terminal."

Then the other question was put, "Does the agency still fulfil its original purpose?" He said, "The board and the terminal continue to fulfil their original mandate," and it goes on.

Over the years, since 1946 to now, the palates of the people have changed in Ontario dramatically; in other words, the multicultural diversity etc. So the taste buds changed. When I listen to you and the board, it seems that you have changed somehow. It seems that protection for Ontario produce is in there and the promotion of Ontario produce. In some areas, in some of the briefing notes and some of your reports, it talks about the cutback



of cut flowers, imported things and all that. There seem to be more cutbacks coming and you're kind of pulled in two ways: one, that this produce start coming in to be managed through the terminal.

Would you say your mandate itself is maintained in the same way as what the minister is stating, but somehow you're changing in some other direction? I know the question might be a little bit confusing, but somehow I get the impression from you that things are changing and there's a sort of protectionist aspect coming about in Ontario produce.

**Mr Ireland:** I don't look at it as we're changing; I view it as this has been an ongoing problem that has arisen at times over the years, and it's been a grey area. Basically, what we're trying to do is get clarification on the issue, basically just on the farmers' market. As far as the rest of the terminal is concerned, I don't think our mandate has changed at all. I think it remains the same.

**Mr Curling:** May I put it this way? Why then would a decision come about to have a cutback on imported cut flowers? I was just trying to understand that. If all things can be passed through the terminal, why would there be a decision made to restrict them?

**Mr Ireland:** The restriction has been on flowers coming in that we do not produce in Ontario.

**Mr Curling:** That's what this says.

**Mr Ireland:** To my understanding, that still remains the same.

**Mr Carsley:** If I may, Mr Curling, I don't think the board is really trying to be protectionist. What the board would like and what the main growing groups in Ontario would like is an Ontario farmers' market that sells only Ontario-produced product. The board has a lease that the growers sign which actually says you're only supposed to sell Ontario product. Unfortunately, this lease has been challenged in court and the board lost, particularly over an issue of PEI potatoes.

One of the reasons, of course, why this is a problem is that the board would like to continue, if it could, with an Ontario-only farmers' market, but we need something in our act to be able to make a regulation that allows us to have the thing stand up in court if we're challenged. Because it's a government body, the leases apparently don't mean very much, and if we don't have something in our act to allow us to make a regulation, then it becomes a problem. There are certain large grower-dealers out there ready to challenge us on that issue.

**Mr Ireland:** If I could expand on this, Mr Curling, just to give you a bit of an example of how serious this situation is becoming at the moment, this has been a grey area that, as you are quite aware, has kind of arisen at times over the years, but we've always been able to kind of shove it under the carpet and deal with it and continue on. But as Bill has mentioned, some of the larger grower-dealers out there—we were told quite recently to expect US potatoes in the farmers' market. The comment has come back to me directly, "Well, I guess if that's the case, then what is to stop me from bringing BC Spartans into the farmers' market?" I guess there would be nothing to stop them. Those could come in at a certain price or

they could come in on consignment, and that could be a very serious situation.

**Mr Curling:** But that hasn't changed your mandate. Your mandate is basically that if it comes in, you have to deal with that.

**Mr Ireland:** Right.

**Mr Curling:** Whether it's imported vegetables or whatever it is, you deal with that. But you're saying that the political will is not there yet to deal with that, to decide what you should do and whether your mandate should change?

**Mr Ireland:** That appears to be the case because, as Bill has mentioned, it was challenged before and the board lost. The situation now is, yes, we would have to deal with it. But under the present legislation, if we were to lose, then the consequences could be very serious.

**Mr Jeff Wilson:** I think also the point, if I understand the question correctly, dealt with the issue of, are the production commodities being produced by Ontario farmers not changing to reflect the changing palate of our society? I would suggest they are. In our own case, on my farm, our highest-dollar-value crop sold at the food terminal this year was snow peas, which went entirely into the oriental foodservice industry. So I would suggest that in cohesion with the Ontario Ministry of Agriculture and Food, Ontario farmers are very rapidly exploring the niche potential, or what appeared to be a niche potential but is actually emerging as mainstream opportunities and challenges, to satisfy the demands of what the consumers themselves want.

**Mr William L. Northcote:** If I could add one further comment to my client's comments, there are really two aspects to this, Mr Curling. The first aspect is a small area of the terminal itself for Ontario producers to compete among themselves in. The second aspect, which is dealt with in the answers, is that the farmers' market facility is not really appropriate for a large, full-scale wholesale operation, because it's essentially an open-air parking lot which people use on a daily basis and it doesn't have the same kind of facilities as are appropriate for someone who's doing a large-volume import business.

**Mr Noble Villeneuve (S-D-G & East Grenville):** Thank you very much for being here this morning. I must confess I've never been to the Ontario Food Terminal, in spite of the fact that I've been here for 10 years as an MPP.

I gather you have two major areas: the farmers' market and the major wholesalers. I've always understood that it was a prize plum to have a spot there. I was surprised by your statement that you had one unit that stayed vacant for almost two years. Who's your major competition in the wholesaling?

**Mr Carsley:** There is no other market like our wholesale market, like the Ontario Food Terminal, in Ontario. Our trading area is the whole of Ontario and parts of Quebec, even parts of the Maritimes, maybe parts of Manitoba. But there's lots of competition. There are many, many wholesalers outside the market who wholesale fruits and vegetables and buy direct and totally ignore the market.



1130

**Mr Villeneuve:** Ignore the food terminal.

**Mr Carsley:** I'm sorry, ignore the food terminal; "terminal" and "market" I sort of use interchangeably.

For instance, all the new warehouse stores, like Price Club, have produce sections, and they're supposedly wholesale operations. As Mr McLean mentioned, we have Knob Hill Farms just going into a very, very large wholesale cash and carry operation that has a produce section about 40,000 square feet. I just point that out as there being lots of competition.

**Mr Villeneuve:** So the prize plum that's perceived by some people to have a spot at the Ontario Food Terminal may not be as valuable as it was even just five years ago?

**Mr Carsley:** That's certainly possible. We have a situation whereby these independent chain stores, such as Knob Hill, Highland Farms, Sunkist, which are independent retailers, maybe with four or five stores, that build, shall we say, their merchandising around produce, many of those people are buying a lot more direct and not off the terminal. So the people on the terminal, such as our growers and our warehouse tenants, have to be very sharp with their pricing, because they have to compete against the possibility of direct purchases too. I would say that perhaps the profitability is not quite as great as some people think. They work on very, very slim margins.

**Mr Villeneuve:** And volume. Your main area is your main wholesale area. How many of those would be subleased by the people who lease from you initially? Would it be 75%?

**Mr Carsley:** No, no. Let's see. I can think of three that are sublets, three units.

**Mr Villeneuve:** Has this changed in the last five years? Did you have more sublets?

**Mr Carsley:** No, I'd say it's remained static.

**Mr Villeneuve:** It still intrigues me to see a unit vacant for two years. Did you have a price on that unit that you had to come down on considerably? It just doesn't seem to be a normal situation.

**Mr Carsley:** No. What you have to understand is that we still got rent. The wholesaler who had the unit had moved to two other units from one unit. He was not able to sublet or sell his lease for this unit for over a year.

**Mr Villeneuve:** You had no jurisdiction over it then?

**Mr Carsley:** No.

**Mr Villeneuve:** You've no idea where he started and what he finally settled for?

**Mr Carsley:** I can tell you that he settled—and this may sound horrendous, but I might as well be totally frank—for at least a million dollars less than what he was asking.

**Mr Villeneuve:** Therein I guess is why we've got you people here this morning. There's an area there that seems to be difficult to pin down, yet your figures have shown some red ink, and that's of concern. And the entire future, what's coming down the pipe for a food terminal like what you have, the competition, is of concern.

I would certainly as an Ontario farmer like to see strictly Ontario produce, but that's not being very realistic at all. Yet we've got to encourage and protect to some degree. That's the main reason why the food terminal is there. So we've got a dilemma here that we're attempting to cope with, and also see public funds used as efficiently as possible.

**Mr Harold Brown:** Madam Chair, just a point of clarification.

**The Chair:** Could you identify yourself, please.

**Mr Harold Brown:** I'm Harold Brown. I'm on the board of directors. There are no public funds being used.

**Mr Villeneuve:** It's a public asset.

**Mr Harold Brown:** Fine, but there are no funds being used.

**Mr Villeneuve:** Yes, I guess that's what I meant. Sorry.

**Mr McLean:** If I could have a clarification, with regard to the unit that they have been discussing that was vacant, the board still got its money every month? There was no loss to the board over the period of time?

**Mr Carsley:** No.

**Mr McLean:** So regardless of whether it was empty or not, you were still collecting your revenue.

**Mr Carsley:** Right.

**Mr Robert Frankford (Scarborough East):** Could you clarify for me, with the farmers' market is there increased use, an increased demand for participation in that?

**Mr Carsley:** As I mentioned, this year the growers have had a very good year. We've had many daily visits by growers. The number of times the tenants or stall holders have come in to use their stalls has gone up. I would say that this year, when we come to measure it, the tonnage in the farmers' market has gone up, whereas in the warehouse part of the market it's probably remaining static or going down a little, even this year.

The fact is that the farmers' market actually has enjoyed, over the years, very good growth. While it levelled off—last year was a bum year and the year before also was not terribly good—it seems to have come back very nicely this year.

**Mr Frankford:** I'm wondering if one can interpret that the warehouse is under some competition and can be bypassed, while the farmers' market perhaps is reflecting a new trend which perhaps should be encouraged. Would it be correct that one could envisage splitting it into two?

**Mr Carsley:** It's certainly the case that the two markets complement each other. When the farmers' market is busy, particularly in the summer and fall months, then the warehouse part of the market isn't as busy because the local produce is available. Generally, it's good quality at quite often lower prices.

The one thing that is a real plus at the terminal is that all the main buyers are there so that growers have an opportunity to meet, almost on a daily basis, the main produce buyers in the province of Ontario. Very often what happens is that a buyer will come by and say to a peach grower, "Don't bother bringing anything to the



market tomorrow; I'll take everything you've got, 10 pallets, 15 pallets," that type of thing. Deals are made there but the product never sees the market, so it is sort of a meeting place for buyers and sellers to get together and often make a deal that totally bypasses the market.

**Mr Frankford:** So there is a sort of synergy of having the two things together like that.

**Mr Carsley:** Yes, having the two markets together. To give you an example, we had a very severe strike at the terminal a couple of years ago; there was quite bit of, shall we say, traffic delay and people being held up getting into the market.

The ministry was able to make arrangements for the farmers' market to be relocated during the period of the strike at the exhibition grounds. The assistant deputy minister came down and talked to a large group of fairly angry farmers, I may say, at the time, and he put forward the proposition, "You can all move down to the exhibition grounds." They screamed and shouted and said: "There's no damn way we're moving down to the exhibition grounds. We're all in here, we're all together. The warehouse has complemented the farmers' market and we're not moving."

There's a very strong feeling between the two groups, the growers and the warehouse tenants. While they compete, they're also very strongly in favour of the market system the way it's set up now.

**Mr Frankford:** The question was raised of changing demands, niche markets, which I assume includes organic crops and, in particular, ethnic foods. I assume you really need the farmers' market to bring in those relatively small-scale niche items.

**Mr Carsley:** Jeff could comment on that better than I.

**Mr Jeff Wilson:** Now that the season is winding down, other than our winter storage crops, I think everyone in the room might be surprised at how much time Ontario farmers are going to spend this winter learning about what the future holds, because I think we've all accepted that change is in the air. It's inevitable, and how do we adapt to that change?

1140

I think your first question dealt with, is there increased demand at the farmer's market? There has been, and we've met that by incorporating some additional stall space in the new section south of the exit ramp, but also with the idea down the road that as that demand grows, if it grows, we can incorporate along the southern fringe of the terminal itself.

But essentially a farmer has several opportunities. If I were, say, an organic producer with a very small amount of product, I still have the opportunity of going in and, on a daily basis, purchasing a day pass to sell my product that day. Many farmers do that on a once- or twice-a-week basis, so there's been a great degree of flexibility in how to incorporate and accommodate some of the changing flavours and demands that are being driven, ultimately, by the consumer.

**The Chair:** We have four speakers, Cleary, Marchese, McLean and Waters, and we have to finish at five to 12.

**Mr Cleary:** I had three questions but it's down to one now. The rest have been answered.

One thing that's been somewhat bothersome to me over a number of years is that we've had a lot of problems in eastern Ontario with labour, like the Quebec workers coming in when we didn't have the same opportunities in Quebec. You made me feel somewhat better when you said a lot of your produce was going into the province of Quebec. I think I understood you to say that.

**Mr Carsley:** Some produce, yes. Quebec is a fairly large market for Ontario produce, but I think the point our chairman made a few minutes ago was that at the Quebec wholesale market, the *marché central*, the farmer's market section doesn't allow Ontario produce.

**Mr Cleary:** That's getting around to my question. I know I can go, in our part of Ontario, to the back door of any restaurant and probably grocery store and I can see all kinds of crates marked "product of the province of Quebec." I know it's being brought in. I don't know whether that's legal, but that's especially at the restaurants. I'm talking fresh fruit and vegetables.

**Mr Jeff Wilson:** I think we have to be clear, we're not talking about not allowing out-of-province product into the province. We're dealing specifically with a chunk that amounts to about 17% of the food terminal property, the farmers' market. In fact, some eastern Ontario wholesalers probably utilize both the Ottawa infrastructure for distributing product and the Montreal infrastructure to service those eastern Ontario restaurants and small greengrocers simply because they may be closer in terms of just distance than they would be to the food terminal in Toronto itself.

**Mr Ireland:** But you're also right, Mr Cleary. Traditionally, it's been easier to move product from Quebec into Ontario than it has been to move product from Ontario into Quebec. Certainly last year, not this past year but in the 1992 growing season in certain commodities, it was at certain times virtually impossible to move product into Quebec, which is another issue, and there are reasons for that.

In fact, some of us attended a meeting in Ottawa back in October and met with some of the Quebec producers to try and deal with this issue. They were not even aware of some of the problems that existed, and we had proof to show them that it did exist last year. It was virtually agreed, though, that this year it was going to be a non-issue because the size of the crop was down compared to last year and that would not be a problem. I was not home for two days when I got a call that it was already a problem, with loads being rejected going into Quebec. There were permits for loads being rejected.

**Mr Cleary:** Strawberries were mentioned here. In the eastern part of the province you don't even get Ontario strawberries in the restaurants; it's all province of Quebec. I've made it my business to go around and find out. It's somewhat bothersome to me.

**Mr Marchese:** I couldn't help but detect Mr Brown's annoyance at some of the remarks Mr Villeneuve made with respect to possible losses, or how we generate funds,



or loss of revenues under whatever arrangement. I can't remember clearly what Mr Villeneuve said. But the remarks Mr Brown made that there are no public funds suggested to me that if we as a government do not put in any money we should not be overly worried about revenue generation or losses, however they happen, and how we make up for them.

My point is that given it is a publicly owned facility, even if the government does not put in money, if we were to generate money as a result it would be good for us as a government and for the people of Ontario in terms of what we could do with profits if there were profits to be made. So we have an interest, the public has an interest in that regard. Whether we put in money or not, because it's publicly owned, we all have a stake in how well we're doing.

I would presume Mr Brown would agree with the remarks I'm making.

**Mr Harold Brown:** It was just that the way the question was put, it seemed there was an inference that if there was a loss shown we were taking money from the government in order to equalize, and that has not been so. The market has been self-sufficient. If the market shows in the red, then the rent goes up and the costs are absorbed.

**Mr Marchese:** Thank you for the clarification. In the briefing we have, there are a number of ways in which moneys are raised by the terminal. Could someone just indicate for the record what those nine areas are, or possibly more?

**Mr Carsley:** Bruce, when he did his overview of the market, indicated what the nine areas were.

The main source of revenue is of course from rents: rents from the A and B unit cost centre, as we call it, the farmers' market cost centre, the parking cost centre, the restaurant cost centre, the railyard cost centre, because we charge a toll for railcars coming in to be unloaded. We also charge a toll charge to large trucks coming in to deliver produce; that's our road and gate cost centre. We have an annual office cost centre. Have I left something out? Oh yes, we have a short-term leaseholder cost centre. We have space that we rent on a short-term basis, 10- to 12-year leases. I think that makes up the nine.

**Mr Marchese:** Have any of the costs that we charge to restaurants or parking or rail gone up considerably over the last three years?

**Mr Carsley:** We've tried our best to hold our rents down—in fact, we haven't had a major rent increase for three years—because of the recession. We do take a lot of depreciation; our depreciation works out at about \$550,000 a year. We've been able to get by quite nicely over the last couple of years where we have shown a loss.

This year we expect to have a profit, and as Harold says, if need be, we'll have to put the rents up considerably in order to cover that. We haven't wanted to do that during this time of recession when many of our tenants have had some difficult times. We've tried to hold the—

**The Chair:** Excuse me, Mr Carsley, you've mentioned depreciation to the committee two or three times.

How do you do that depreciation?

**Mr Carsley:** Depreciation is a non-cash item. In other words, you take it from the statements—

**The Chair:** It's on the books.

**Mr Carsley:** —but it's actual cash you have available to use. If you look at our annual report, I believe our cash flow, if you want, looking at our source and uses, this year came to about \$630,000 even with our loss taken off that.

That money is cash we have available to pay the principal and interest on our debt plus our, shall we say, capital expenditures.

The board has never had as one of its objects to make a large profit. In fact, if the board incurs a surplus, then in our act it actually states that we have to give that surplus back in the form of reduced rents and fees to our tenants. That's what it says in our act, you see. If we made a whole lot of money and Queen's Park decided they wanted it, I guess we'd have to ask our tenants first. That's the way the act reads: The money is to be kept within the terminal.

1150

**Mr Marchese:** When was that written?

**Mr Carsley:** In 1946, I guess, or 1947; whenever.

**Mr Marchese:** I see. Is it your view that perhaps we might look at updating that particular point?

**Mr Carsley:** I think one of our points here today is that our act has to be updated; we're working in the Dark Ages. So do our bylaws, regulations 872 and 871. They all have to be updated, and it should start with the act.

**Mr Marchese:** Have you had discussions with the ministry about this?

**Mr Carsley:** Of course.

**Mr Marchese:** Ongoing, presumably?

**Mr Carsley:** Yes, right.

**Mr Marchese:** We are contemplating some changes to the act, are we?

**Mr Carsley:** The ministry doesn't have problems in terms of changing the regulations. The act, to be changed, has to come before the Legislature. I guess in the past five or so years, we've always been told by the ministry that there is more important legislation to bring forward in terms of other issues that maybe relate more directly to agriculture.

**Mr Marchese:** I see this as a complete disincentive for the terminal in terms of how it can generate money to renovate, to build, to come up with a greater vision for the terminal in some ways, incrementally, presumably. It's a disincentive, is it not, this particular clause?

**Mr Carsley:** Not really. I think we've tried to maintain, shall we say, a balance, not tried to make a huge surplus ever, in order to keep our rents down. The new farmers' market with the cover was established in 1982, and during the 11-year period, I think the total rent increase over that period has been about 4% in total.

**Mr McLean:** I have about five questions, but I'll try to make them a little shorter. I'm curious: The salaries and benefits have gone up. They're over \$2 million now.



Has the staff there had an increase in salary this year?

**Mr Carsley:** There has been no increase this year, no.

**Mr McLean:** Was there one last year?

**Mr Carsley:** Yes, there was one last year.

**Mr McLean:** How much was it last year? What per cent?

**Mr Carsley:** It was 1.8%.

**Mr McLean:** The interest that is in here, the \$671,000, what is that on? Do you have a loan?

**Mr Carsley:** That's on our debt. We have outstanding debts, for our major cold storage renovation and our addition, of approximately \$6 million, I think it is.

**Mr McLean:** That's what your debt is?

**Mr Carsley:** Yes. Some of it's at prime, the part that's guaranteed by the province. The major part of the debt isn't guaranteed by the province and it's at a quarter over prime.

**Mr McLean:** I'm curious why the depreciation is in under revenue. You'd indicated it's a surplus.

**Mr Carsley:** No, it's in as a cost. It's in as an expense, but then it's a non-cash item, if you see what I mean.

**Mr McLean:** It's under expenses?

**Mr Carsley:** Yes.

**Mr McLean:** Why is depreciation in there under expenses?

**Mr Carsley:** We're set up like a normal corporation. We take depreciation. I don't think in the government books—I could be wrong—you take depreciation.

**Mr McLean:** Waste removal: You'd indicated that you've done a lot. I see it's up to \$665,000.

**Mr Carsley:** If you look at our latest figures, and we have copies of this for the committee, in 1992 it was \$756,000. This last year, ending March 31, 1993, it was \$601,000. This year, because we've made more savings through recycling, we suspect it'll be down to probably more like about \$500,000.

**Mr McLean:** I was just looking at this. It's from the food terminal.

**Mr Carsley:** That may not be the latest report.

**Mr McLean:** It isn't? It says up to 1994. That's what the projection is.

**Mr Carsley:** Oh, okay. All right, then.

**Mr McLean:** I have that one too, but that's different from this.

The final one that I have is with regard to legal fees. I see that has been jogging along at the same rate year over year. What cases have you got now that you're dealing with before the courts? Do you have a lawyer on staff, full-time?

**Mr Carsley:** No, we use Shibley Righton as our lawyers. A lot of the legal fees come about because of leases and that sort of thing: redesigning leases for the offices etc. Our big legal bill came about in 1991, I guess, when we had the strike and we had to go to court. We had two strikes. We had the PSAC strike and we had the Oshawa Foods strike and we had to go to court for

injunctions four times. So our legal bill for that was about \$65,000. But generally it's run-of-the-mill things like leases etc.

**The Chair:** Mr Waters, maybe for just a couple of minutes and then we have to decide what we're going to do, I think.

**Mr Waters:** I have a whole page of questions, but I want to quickly investigate a couple of things. One was the land. Who owns the land that the food terminal sits on?

**Mr Carsley:** The deed to the land is in the name of the food terminal board. It's similar to what happened with the situation at the stock yards.

**Mr Waters:** Initially the province invested some money into the food terminal, or there was a loan or something that was guaranteed?

**Mr Carsley:** No, there was a bond issue that ended up being bought up by the Hydro pension fund, so I guess the bonds got sold off to several different institutions, and that's fully paid off. Nothing came out of general revenue to actually establish the food terminal.

**Mr Waters:** On another point, you said that you have some financial obligations, some debt out there. Should you default on that debt, who picks it up?

**Mr Carsley:** The province would pick up the guaranteed part, which is I guess down to \$1.6 million. The rest of course is not secured by anything. The bank has loaned us the money based on the merits of the project we presented to them.

**Mr Waters:** I'm going to jump way over to something different. I believe you and I talked about something when you were appointed to the board, sir, and that is the standards for the produce. Is there within the food terminal, especially—and I'm not worried about provincial produce; I'm worried about this produce that's coming in from outside. I'm worried about what's on it that we're eating, because there are definite rules on what an Ontario farmer can put on his produce or any product that is for human consumption. The rules are different when it comes from outside of the country. They can put pesticides and all kinds of things on that that we're not allowed. How is that dealt with at the food terminal? A lot of these trucks come in and the first time they open their doors is at the food terminal. What happens?

**Mr Jeff Wilson:** I think it's fair to respond that the food terminal board has no direct involvement in that. Residue analysis is in the federal jurisdiction. They have statistical models, meaning that they have models to determine that they're getting representative samples in order to determine where the levels are. But the actual numbers this year will approach 250,000 nationally.

In essence, what we want to ensure as a board is that there is equality, not necessarily through the board, but board members, commodity organizations such as those we have pushed—that we have a comparable residue analysis system that's testing domestic and imported equally so that everyone is treated the same, once again in the best interests of the consumer.

**Mr Waters:** I see Mr Villeneuve—



**The Chair:** Yes, he just has a brief supplementary, and then I think we'll have to—

**Mr Villeneuve:** Litigation: Food banks get food that is surplus after the day or after the week or whatever. Should there be litigation, where someone dies and it goes back to something that was obtained, maybe free of cost, at the food terminal, who is liable?

**Mr Carsley:** That's an interesting question. I think the food banks now actually do have some liability insurance. All our tenants would have product liability insurance of some type. It wouldn't come back on us because we're not giving them the food. We don't take title to anything. The food the food bank gets is the food that is, shall we say, slightly off spec, if you want. That comes from our tenants, not the board.

**Mr Jeff Wilson:** Very quickly, the good Samaritan legislation, which I gather has not been resolved, was one attempt to address this very issue. My understanding is there is still dialogue going on among all the parties involved.

**The Chair:** We'd like to thank you for coming before the committee today. Obviously, the review is just beginning. The committee still has a number of questions, and I think it is the wish of the committee to tour the facility, which will be in the new year, since the House

is hopefully only sitting for another two weeks.

We would like to thank you for appearing before us. We would like the updated annual report. This was the one that was circulated to the committee and it's 1992, but I notice that you held up a more recent report. If you could send us sufficient copies, those will be distributed to the committee members. The committee clerk will be in contact with you about the schedule for continuing the review in the new year and the visit of the committee to the facility.

Is that the wish of the committee? I understood that it was, and I just want to confirm that. Agreed.

#### SUBCOMMITTEE REPORT

**The Chair:** The only other business before the committee this morning is to move and approve the subcommittee report dated Wednesday, November 24.

**Mr McLean:** I'll move that.

**The Chair:** Moved by Mr McLean. Any discussion on the subcommittee report? All in favour? The subcommittee report is carried.

The committee stands adjourned, and thank you for your attendance today.

The committee adjourned at 1201.





## CONTENTS

Wednesday 24 November 1993

<b>Ontario Food Terminal Board</b> .....	A-317
Gary Ireland, chair	
Bill Carsley, general manager	
Bruce Nicholas, assistant general manager	
Jeff Wilson, member, board of directors	
William L. Northcote, legal counsel	
Harold Brown, member, board of directors	
<b>Subcommittee report</b> .....	A-328

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
  - Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Villeneuve, Noble (S-D-G & East Grenville/S-D-G & Grenville-Est PC) for Mrs Witmer

**Clerk / Greffière:** Mellor, Lynn

### **Staff / Personnel:**

Richmond, Jerry, research officer, Legislative Research Service

Yeager, Lewis, research officer, Legislative Research Service

CH2011  
XC19  
-G52

Government  
Publication



A-21

A-21

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 1 December 1993

# Journal des débats (Hansard)

Mercredi 1 décembre 1993

Standing committee on  
government agencies

Comité permanent des  
organismes gouvernementaux

Intended appointments

Nominations prévues



Chair: Margaret Marland  
Clerk: Lynn Mellor

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 1 December 1993

The committee met at 1004 in room 228.

## INTENDED APPOINTMENTS

**The Vice-Chair (Mr Allan K. McLean):** I ask the standing committee on government agencies to come to order.

PAT O'NEILL

Review of intended appointment, selected by the official opposition: Pat O'Neill, intended appointee as chair, Metropolitan Toronto Housing Authority.

**The Vice-Chair:** This morning on our agenda we have Pat O'Neill, the intended appointee as chair of the Metropolitan Toronto Housing Authority. Pat, have a seat at the front, please, and if you have an opening statement or any remarks you wanted to make, you could do so at this time.

**Ms Pat O'Neill:** No, I have no opening statement. I'm just glad to be here and glad to answer questions.

**The Vice-Chair:** Thank you. Now we will go into the questions. This selection was picked by the official opposition. We will ask them to proceed at this time. I would suggest we take 10 minutes each round and then another round of 10 minutes, and that's the 20 minutes each. Okay? Carry on, sir.

**Mr Joseph Cordiano (Lawrence):** Welcome to the committee. I suppose I should congratulate you, first of all, because obviously you're going to be appointed to this position. What we're about to do is essentially rubber-stamp the appointment the government has made.

Unfortunately, or fortunately, this is the process we're involved with, but let me just say that the government has the right to appoint the people it sees fit to its positions that are designated to be appointed. Having said that, I think at the end of the day people will judge the government on its discretion and its ability to make the appropriate decisions and appointments. Obviously, this is one of those situations where the government is going to be judged by the public at large. That goes without saying.

**Mr George Mammoliti (Yorkview):** Hurry up.

**Mr Cordiano:** I'm being interrupted, Mr Chairman. If this doesn't sound like the appropriate or intended message, then I'm very happy that it does not sit well with you.

**The Vice-Chair:** Interruptions are not accepted.

**Mr Mammoliti:** He's making a statement.

**The Vice-Chair:** Mr Cordiano, continue with your questions.

**Mr Cordiano:** Having said that, let's be perfectly honest. The main concern in all of this from our party's point of view is that this is a highly partisan appointment. There is no doubt in our minds that this is the case, and I think the public perception of this would be as a highly partisan appointment. How do you feel about that?

**Ms Pat O'Neill:** Actually, Mr Cordiano, having been

part of the public most of my life, I understand that there may be a concern in the public about that, and I did in fact consider that matter very seriously before I decided to apply, after Jean had resigned.

**Mr Cordiano:** Jean Augustine.

**Ms Pat O'Neill:** Jean Augustine, yes. I thought about it a great deal. I looked at my own qualifications, discussed it with a few close friends and then thought about the previous chair, Ms Augustine. Again, that criticism could have been levelled at that time. However, those of us in the community who know Jean and who had worked with her were all very pleased about her appointment as chair.

**Mr Cordiano:** Can I ask you to clarify how the appointment of Jean Augustine, the previous chair, would have been considered partisan at the time?

**Ms Pat O'Neill:** Those of us who knew her knew that she was a Liberal, but we didn't feel that was a handicap.

**Mr Cordiano:** She did not hold elected office; she was not in a position that would have labelled her of one political persuasion or another. I don't believe that was the case. She was appointed by a Liberal administration, there's no doubt.

Listen, the government of the day wants to allow for partisanship in the civil service and in other areas, and that may be appropriate. All I'm suggesting is that the public perception is such that someone who holds an elected office—and this is of concern to all of us as members. It's an issue I think we have to deal with.

I'm not suggesting for a moment that anyone who held elected office should never be appointed to any position. We'll come to the other concerns I have in a moment, but I would like you to address that concern, because the last thing I would want for the MTHA is to have a situation where its chair is perceived to be highly partisan and therefore unable or unwilling to bend to accommodate other views and philosophically different positions on matters.

If that is to be the style of governance of this administration, and there is a disturbing pattern in that direction, from our point of view, then we would want to try and dispel that. I would like to give you the opportunity to do just that, dispel that perception. That's why I'm here this morning, to give you that opportunity.

1010

**Ms Pat O'Neill:** I appreciate that, Mr Cordiano. Again I would say that I'm aware it may appear to be a problem. However, I would hope that people would look at my record. I would hope people look at the fact that this is not the first appointment I've received. I was appointed to the North York planning board by my peers, who are hardly a partisan group. I was also appointed by the last Liberal administration to the Custody Review Board. I have received appointments before, and I would like to think it was due in small part at least to merit.



**Mr Cordiano:** That may very well be the case, but given the fact that you recently worked for one of the members of the governing party that happens to be in power and who sits on the government benches—Mr Perruzza, actually; you worked for him in his constituency office—that is a highly partisan position to be in. You deal with the public on a daily basis, but there is an understanding when the public goes to a constituency office that they're entering the office of a member of a particular party, notwithstanding that the office should never deal in a partisan way. None the less, it is understood that the person holds political office as a result of his or her political persuasion, so that's another concern I have. In a way, that sends that kind of signal, that kind of perception.

How do you respond to that, given that you were just working for an MPP in that capacity?

**Ms Pat O'Neill:** I would say I probably got the job in that office because of my knowledge of the community and because it was felt that I could be helpful to constituents. I think many of us who have served at the local level of government realize that partisan politics is a very small part of any deliberation. The key deliberation is looking at the public good, serving the constituents.

I've served in a number of capacities over the years, some of which have been a political role, some of which have not. My experience is that one does what one needs to do. Certainly this role is a non-partisan role and there are very clear rules that guide the office of the chair. I think I have sufficient experience to know what is appropriate and what isn't, and I hope to be able to prove that.

**Mr Cordiano:** Okay. Let me move on.

Some of the substantive matters regarding the MTHA: One of the concerns I have is that MTHA housing stock is becoming quite old and dilapidated. In my riding alone there is quite a number of MTHA units which need some retrofitting and renovating, refurbishing. This is going to be quite a challenge for the present administration and any future administrations.

Trying to keep those units in good shape and bring them up to a standard which is acceptable is going to be rather difficult, particularly given the fact that the present administration is putting most of its effort, in fact almost its entire effort, towards the creation of new housing stock in the form of non-profit housing and therefore very few resources are left over for what's to be maintained in the MTHA stock. What are your views on this and how will you approach this problem?

**Ms Pat O'Neill:** The aging housing stock is one of the major challenges that will be faced over the next few years in terms of the repairs needed to keep the housing stock adequate.

I think there is a number of things that can be done with regard to looking at what has to happen in most of the housing. I firmly believe that it's really important to involve the people most directly concerned, that is, the residents and of course the front-line staff, who generally would know the problems much better than those who are not at the front line.

**Mr Cordiano:** Knowing the problems is certainly a starting point, but we know what the problems are. Trying to solve them is really a question of the willingness to do that, and I think it's going to be your task to put pressure on the government to do just that. If that's not what your intent is, then obviously we're not going to solve this problem.

**The Vice-Chair:** Mrs Marland, you're next on the list.

**Mrs Margaret Marland (Mississauga South):** Good morning, Ms O'Neill. How do you feel about being appointed chair of an organization which you have not been a member of?

**Ms Pat O'Neill:** I realize that it's a challenge and that I'm going to have a lot of homework to do to be brought up to speed on some of the more pressing issues, but I'm quite prepared to put in the work that's necessary to do that. I am aware generally of a number of the issues, but obviously there are a lot of specifics I don't know. It will be a challenge.

**Mrs Marland:** Don't you think possibly it would be more fair if the chair of a multimillion-dollar organization had had some experience, even if it was one year, sitting as a member of that board first?

**Ms Pat O'Neill:** I believe that was tried and unfortunately didn't work.

**Mrs Marland:** When was it tried?

**Ms Pat O'Neill:** I believe Anne Smith was originally nominated for the position, but unfortunately it didn't materialize.

**Mrs Marland:** Anne Smith was never appointed chair.

**Ms Pat O'Neill:** No, no, but I gather that she was the preferred candidate initially, and she had obviously had the experience on the board. Yes, you're right, I think it's much more preferable to have somebody who has had the experience on the board and who is up to speed with the problems. I am not in the position to say why that didn't happen.

**Mrs Marland:** For your information, Anne Smith hadn't even been on the board a year when she was recommended for appointment. She's not an example.

How do you think 12 other board members are going to feel about the fact that they have tenure and experience on that authority, have committed their services to MTHA, for the most part as volunteers, and you're coming in at—what salary are you going to be paid, by the way?

**Ms Pat O'Neill:** It will be \$65,000.

**Mrs Marland:** So you're a little below the bottom edge of the range then.

**Ms Pat O'Neill:** No, slightly above the bottom end.

**Mrs Marland:** Okay. How do you think the other board members will feel about having you come in and be paid as a full-time chair without any experience when they've put in their time as volunteers and served some tenure?

**Ms Pat O'Neill:** I don't know whether any of the other members had applied, so I don't know whether they



in fact wanted to take on the role, but certainly one of the first things I would anticipate doing would be to meet with the board and try to establish a cooperative method of working.

**Mrs Marland:** Obviously, you're walking into a job that carries with it a great deal of responsibility. That's why the direct inference has been made about having had previous experience with that particular organization. At least those are the concerns that have been expressed in the phone calls to me.

I think I'll ask you about a recent situation that was very difficult, that being the meeting of the Organization of Ethnic Employees of the Metropolitan Toronto Housing Authority. First of all, do you approve of there being an Organization of Ethnic Employees within the Metropolitan Toronto Housing Authority?

**Ms Pat O'Neill:** I see no difficulty with that, if they have particular concerns.

1020

**Mrs Marland:** So you think it's okay for one group of employees to have an organization within a larger organization. Is there going to be an organization of non-ethnic employees, do you know?

**Ms Pat O'Neill:** There may well be. I'm afraid I'm not familiar with all the organizations that currently exist within the authority, so I really could not answer that.

**Mr Cordiano:** What does "non-ethnic" mean?

**Mrs Marland:** Do you think a group of employees can organize within an organization—

*Interjections.*

**Mrs Marland:** Excuse me. Being chair, you're going to be responsible for the operating of this authority. Already you know there is a group within a group. Are you happy to know that a group of employees is organizing internally? Is there an organization of non-ethnic employees or any other group? I mean, do you think that's healthy, for employees to segment themselves?

**Ms Pat O'Neill:** I certainly prefer organizations where people work cooperatively and where everyone is working together to solve problems. I feel that is the best method of working, and certainly in most of the organizations I've worked with we've tried to be inclusive rather than exclusive and tried to have all staff members work together on problem-solving.

**Mrs Marland:** Having said that, do you condone this Organization of Ethnic Employees at MTHA?

**Ms Pat O'Neill:** Again, Mrs Marland, I'm not familiar enough at this point to know why they were meeting, what their specific concerns were, and therefore I'm not in a position to make a judgement on that at this time.

**Mrs Marland:** You're taking over tomorrow and you haven't investigated this situation, although it's been headline news?

**Ms Pat O'Neill:** Mrs Marland, I would think it would be totally improper for me, before I'd been before this committee, to ask for any internal information on the operation of MTHA at all.

**Mrs Marland:** Oh, really?

**Ms Pat O'Neill:** Absolutely. I've read a number of the public reports. I feel it would be absolutely improper and an insult to this committee to ask for internal documents before this committee had interviewed me.

**Mrs Marland:** Most people who come before this committee really do their homework so they can answer questions on the organization to which they are appointed. They want to be in a position where they can give answers to questions from this committee because of the importance of the appointments. If you're going to be paid \$65,000 a year and you're going to have all the other per diem benefits that accrue to that position, I would think you would have looked into the organization which you've been appointed to.

**Ms Pat O'Neill:** As I said, Mrs Marland, I've looked at all the public reports I've been able to get hold of. I felt it would not be proper for me to look at internal documents until the appointment was confirmed. I believe in process, and I do not believe in bypassing part of that process. I think this committee is an important part of the process.

**Mrs Marland:** Do you think it was appropriate for the invitation to this meeting of the Organization of Ethnic Employees to have gone out with the pay stubs of the employees of MTHA?

I really find it interesting when the government feeds the government members questions. I really find that interesting.

**Mr Mammoliti:** I find it offensive that you're bordering on racism here. That's what you're doing.

**Mrs Marland:** I find it offensive that the government members can't think up their own questions and they're fed their questions by the Premier's secretariat, which is exactly what's happening before my eyes.

*Interjections.*

**The Vice-Chair:** Interjections are not in order. I would hope that you would respect the Chair.

**Mrs Marland:** We'll see when Mr Marchese, who is perfectly capable of asking his own questions, asks his question.

Anyway, do you think it's appropriate for an organization like MTHA to send invitations out with their pay stubs to a meeting of a certain group of employees?

**Ms Pat O'Neill:** Again, Mrs Marland, I have explained to you why I have very definitely not involved myself in internal and private things at this point.

**Mrs Marland:** Well, remove it from MTHA, then. You're going to head a large corporation. Do you think it's okay for that corporation to send invitations out with their pay stubs to a segment of employees within that organization?

**Ms Pat O'Neill:** I don't see any great difficulty with that, no.

**Mrs Marland:** You don't see any difficulty with it?

**Ms Pat O'Neill:** No.

**Mrs Marland:** Have you any concern about the people who don't fall in that group, who receive the invitation and know they're not eligible to attend a meeting within that organization?



**Ms Pat O'Neill:** I think within any organization there are a number of groups who are working on specific problems. Some groups experience different problems from others and therefore need to meet to talk about those problems. I would not expect there to be general interest in, say, the disabilities group that would have specific interest to those members.

**Mrs Marland:** Do you think they have to organize to deal with it? My point is, if you're head of this organization, wouldn't you prefer that employees with a problem come directly to you rather than organize within themselves and segment themselves from other employees?

**Ms Pat O'Neill:** I would certainly hope that employees would feel comfortable enough in coming to me with any concerns they have.

**The Vice-Chair:** Mr Mammoliti is next. Thank you, Mrs Marland.

**Mr Mammoliti:** First of all, in reference to questions that were asked earlier, I negotiated a collective agreement when I was with MTHA and that gave employees the right to access to invitations through payroll. In answer to Mrs Marland's question, it's a negotiated right that both OPSEU and CUPE employees have on staff. We're bordering on talking about those types of rights and I don't think that's our jurisdiction in this particular committee.

**Mrs Marland:** It's a contractual right?

**Mr Mammoliti:** In answering your question, it's a negotiated right to have those things come out in the form of flyers through payroll, okay? Second, I have something of a concern—I was going to do this on a point of order but I'll take my time here—in terms of "ethnic." I'd like to know what "non-ethnic" means to Mrs Marland. I'd like her to define what "non-ethnic" means.

**The Vice-Chair:** Order, please. We're here to question and talk about the witnesses before us, not to direct questions to other members.

**Mr Mammoliti:** Okay, that's fine. Ms O'Neill, I want to thank you very much for coming in front of the committee. I've had the pleasure of knowing you for quite some time professionally and I know you will give your best and I know you'll do a wonderful job and try your best to work with the people at MTHA.

Very quickly, as you know, in answer to Mr Cordiano's questions about the older buildings and the role you're going to play in terms of trying to resolve some of the problems that exist in terms of maintenance and upkeep and how you're going to divvy up the \$250-million budget over 110 projects across the city—quite the task, we know that—I have already made a recommendation to the Legislature in the form of a resolution which was adopted unanimously. I believe the Ministry of Housing is now looking at that resolution and trying to adopt it, from what I can understand.

That resolution talks about just that, dealing with the problems on those 110 different projects. I suggested that the best way to deal with it is to create two or three pilot projects that would allow tenant, staff, union participation

in terms of decision-making and do that in the form of a co-op or non-profit type of system, where there is a board of directors and the decisions won't be coming from a tower somewhere downtown but grass-roots decision-making.

There has been some discussion about this in my community and others. I'd like your opinion on whether my suggestion is valid. Is it worthwhile? I'd also like to quash some rumours at this point that Mr Mammoliti's trying to do away with jobs in the Ministry of Housing. That's not my intent, but to try and spend the money in the area that I think is the most important, and that's the grass-roots maintenance, tenant decision-making, and getting the work done, getting those toilets fixed without having to wait for two weeks. How do you feel about my resolution? I think you've had the opportunity to look at it, anyway.

1030

**Ms Pat O'Neill:** I have, and the working group's report. I've also read the report of the working group on some co-op conversion. Yes, I think it's a very good idea to try some pilot projects to see how that would work, but more important, to encourage and assist residents and staff in terms of many aspects of the management of projects. It's essential in really turning the tables around in terms of the future of the whole of MTHA. I know as a former tenant the frustration of meeting monthly with management, offering suggestions which we felt would be very practical suggestions in terms of our own neighbourhood, and six months later to receive the answer no, with never an explanation. Naturally, most of the people who have some leadership skills and abilities didn't stay too long.

It's really important to involve people. The people most affected obviously are the residents and the front-line staff. They're the people who are out there. They not only see the problems; they very often have the practical answers to solve those problems. If you look at industrial development in Japan and Germany you'll see that those kinds of models where the front-line people really do have some input into how changes can be effected, which make the workplace better, which achieve economies, and which generally achieve a good partnership, are the most effective industries. I think the same can happen in MTHA. It's essential to involve residents and front-line staff in that kind of decision-making. They know the problems and they also have very many good, worthwhile suggestions on how to solve the problems. I think it's essential.

**The Vice-Chair:** Mr Mammoliti, we have more colleagues who want to ask questions. You've got three and a half minutes left in this round.

**Mr Mammoliti:** We do have an hour, though, right? I'll give my colleagues a chance.

**The Vice-Chair:** Mr Frankford is next.

**Mr Robert Frankford (Scarborough East):** My riding of Scarborough East has many similarities to the North York area that I'm sure you're most familiar with, and we have quite a number of MTHA buildings. I hear a lot of comments about them, both from residents who



come into our office and the broader community. I think there are a lot of misunderstandings about the whole setup of MTHA. Many things are misunderstood and this leads to a lot of problems for many people. For starters, there's confusion—I know you know, but just to clarify it—that all non-profit housing is the same, that it's all MTHA, when the reality is that there has been no Ontario Housing built for 25 years; I think I'm correct.

**Ms Pat O'Neill:** Yes, almost 25 years now. Yes, there is a lot of confusion and certainly people get very excited when they hear "non-profit" and most people are very alarmed about the idea of non-profit housing. Unfortunately, some of the ways in which MTHA has been not only constructed but some of the problems of mismanaging have contributed to those factors. I can think of one particular community of 300 houses, with no basements and no storage rooms for refuse, that had three garbage containers. Consequently, there was always a problem of garbage strewn all over because the containers simply were not large enough to contain the garbage. Naturally, the residents adjacent to that community were very angry.

Sometimes there are such simple solutions to resolving problems between neighbours. Again, it works most effectively when neighbourhoods cooperate and work on those kinds of problem-solving issues.

**Mr Frankford:** I notice you used the word "design." Much of the design philosophy of that day, when we certainly were not the government, was this high-rise approach with a lot of surrounding lands. If I can get analytical, I think this comes from the Le Corbusier ville radieuse approach of its time, which I think is now totally discredited, but somehow people seem to believe this is an inevitable part of social housing.

**Ms Pat O'Neill:** There was a very unfortunate phase throughout design where the high-rise tower was seen to be the solution to housing needs. Every city I've ever visited has its own suicide towers, and it's very unfortunate. Obviously, in some places they've started to actually destroy those buildings rather than even try to change that.

**The Vice-Chair:** Thank you, Mr Frankford. Mr Cordiano is next on the list. We have Ms Carter, Mr Marchese and Ms Harrington still left on the list for your party.

**Mr Cordiano:** I'd like to get back to the question of salary. I think you said that \$65,000 a year was your salary target. That was something that was indicated to you by the appointment board, the secretariat?

**Ms Pat O'Neill:** Yes.

**Mr Cordiano:** What was the previous chair's salary? Is there anyone in the audience who can answer that?

*Interjection.*

**Mr Cordiano:** Approximately \$76,000. Has anyone ever been paid over \$100,000 for this position?

*Interjection.*

**Mr Cordiano:** Never. It's very interesting. The range for this salary is certainly over \$100,000; I believe it went up as high as \$120,000. Correct me if I'm wrong. The quotes were that the range was between \$60,000 and

\$120,000, or something in that neighbourhood.

*Interjection.*

**Mr Cordiano:** It's between \$57,000 and \$96,000 for this position.

**Mr Mammoliti:** Can we have this information perhaps put on the record and answer any questions?

**Mr Cordiano:** No, I'm repeating what's being said. So the range was between \$57,000 and \$96,000, something in that area.

*Interjection.*

**The Vice-Chair:** We can't have a conversation going on here. You'd better direct your questions to the Chair.

**Mr Cordiano:** That will be sufficient, Mr Chair. I just needed that information. I'm curious about why the chairs of this position are paid at the lower end of the scale rather than at the higher end of the scale. It's rather curious to me that that would happen. This is not a reflection on you, Ms O'Neill; it's just a commentary I would make, an observation. There's nothing personal in this. If I were hiring someone, I would want to hire someone I thought fulfilled all the qualifications and requirements of the position in every way possible; that this person should be paid somewhere in the middle, at least, or at the upper end of the scale, and then that someone would have all of the necessary qualifications and experience. That would seem to be what would happen over the long term. It is rather strange that we haven't seen that in this position. So either the range is too broad a range or someone is not making this appointment a position according to experience commensurate with the salary. It just seems to me a little awkward that this would happen.

1040

I would say this, that if you are the chosen appointee for this position and in fact are successful, then obviously there are certain criteria that have been established in order to meet that salary range. I would then say that you should be paid what your experience and qualifications would seem to point to. Why start at the bottom end of the scale, is my concern.

What happens in the private sector is that when someone is hired for a position they're usually in the middle of the range or at the upper end of the range if they have had a lot of experience. What this tells me is that the people who are looking to appoint someone in this position—and for the last unsuccessful appointee, the quote around the salary range that was offered was also at the lower end of the scale. It would seem to indicate that there isn't the kind of necessary experience there. That's the kind of perception that one is left with. At least the impression of the public will be that this is at the lower end of the salary scale.

I would hope that someone in the government, someone in that secretariat, would take this into consideration, because we would not want to send the wrong message about Ms O'Neill's qualifications and experience. I would hope that would be the case.

**Ms Pat O'Neill:** The message I'd like to send, Mr Cordiano, is that times are tough and that's a very adequate salary and that I don't think anyone should be



looking for salaries at \$80,000 during times like this. If one wants to send a message on economy in MTHA, I think one starts with the chair.

**Mr Cordiano:** I can understand your point, but when someone is going to come out of, say, another position that is paying what a similar position in the private sector would pay, let's compare apples to apples. I would say to you, and I would say this to anybody listening on the government benches, that for this type of position a salary of \$65,000 certainly does not compare very favourably to the private sector. In fact, you'd probably be paying somewhere in the neighbourhood of twice that amount for someone in charge of a multimillion-dollar corporation, who is the chair of that type of corporation. That's not something that's very strange if you look at what the chair of Hydro is making, if you look at the various other important positions.

**Ms Jenny Carter (Peterborough):** And look at the criticism we got.

**Mr Cordiano:** If this government is saying that MTHA is not an important body and is not an important administrative organization to be headed by someone who has the necessary experience, necessary qualifications and therefore, rightfully so, the appropriate salary level, then I'd say there's a problem. I'd say you are being shortchanged, Ms O'Neill.

**Ms Pat O'Neill:** I would totally disagree, Mr Cordiano. I made it perfectly clear in my interviews that my interest was in the job. If I were in the position where I could afford to do this job for nothing, I can assure you I would do it. Unfortunately, I have to work for a living, but I think this is a perfectly adequate salary. Salary was not the key consideration for me, I assure you.

**Mr Cordiano:** Your view as to what is adequate or inadequate is sort of immaterial.

**Mr Mammoliti:** You're putting your foot in your mouth, Joe. You're not listening to your leader.

**Mr Cordiano:** Mr Chairman, can I have the floor, please.

**The Vice-Chair:** Interjections are not accepted.

**Mr Cordiano:** The appointee's view or opinion—  
*Interjection.*

**Mr Cordiano:** Can you just be a little polite and courteous?

**Mr Mammoliti:** I'm trying to help you. You're putting your foot in your mouth.

**Mr Cordiano:** Mr Chairman, I think you should add a couple of minutes to my time, as I'm being interrupted.

**Ms Pat O'Neill:** I do understand your point, Mr Cordiano.

**Mr Cordiano:** Well, let me finish my point, because I haven't finished. My point is very clear. Your view of what the salary ought to be is very unimportant in this consideration. In fact, what we're comparing it to is the private sector or any other similar type of position, whether it's public or private sector. You could compare what similar positions for similar types of organizations, multimillion-dollar corporations, would pay their chairs, and I would say this is a salary that is rather low. If the

government is sending out a message that it's interested in restraint, then I think the government should look at all the chairs of all the other agencies, boards and commissions and crown corporations with a view to making a similar point.

**Mr Mammoliti:** On a point of order, Mr Chair: It's his leader who's sending out this message.

**The Vice-Chair:** That's not a point of order.

**Mr Mammoliti:** It's his leader who says we have to—

**The Vice-Chair:** You know that's not a point of order. Contain yourself. Mr Cordiano has the floor.

**Mr Cordiano:** As Mr Mammoliti's very interested in what I have to say, I want to move on to the next point, because obviously this point is going over everybody's head on that side, and that's fine.

Mr Chair, I would say I've been interrupted, so with your indulgence, I would like to finish this point. I'm going to quote from what Mr Mammoliti had to say about the question of the refugee housing scam that apparently he's very concerned about. There is, as he described it, a rampant amount of refugee scams going on in MTHA. This has been quoted in various articles in the paper. As I say, it's something he's quite concerned about and he has a number of MTHA units in his riding.

**Mr Mammoliti:** On a point of privilege, Mr Chair: I want to put on the record at this point that at no time did I talk about refugees with the Toronto Sun or anybody else. I'd be pretty careful in terms of what you say here, Joe.

**Mr Cordiano:** I don't believe I was saying anything disparaging about the member. I was talking about a view he allegedly held in a quote that was referred to in a newspaper in Toronto. If it's incorrect, that's fine. But quoting from an article in the Toronto Sun, it simply says George Mammoliti said, "'They're all over the place,' said the Yorkview MPP. 'It's rampant,'" talking about refugee claimants subletting public housing apartments.

**The Vice-Chair:** Mr Cordiano, you've gone two minutes, pretty near three minutes, overtime. Ms Marland, you're next.

**Mrs Marland:** Ms O'Neill, how many units does MTHA own and operate at the moment?

**Ms Pat O'Neill:** I believe there are around 27,000 units directly operated and another 4,000 which are privately managed for the corporation.

**Mrs Marland:** What's the annual operating budget?

**Ms Pat O'Neill:** It's \$250 million.

**Mrs Marland:** Did you have a briefing by the minister's staff?

**Ms Pat O'Neill:** I had some questions I wanted to ask the minister's staff and they were kind enough to answer some of the questions for me.

**Mrs Marland:** Did you have a briefing in the minister's office or with the ministry staff?

**Ms Pat O'Neill:** I went to the ministry and yes, I asked to speak to some of the ministry staff.

**Mrs Marland:** You didn't discuss with them the



difficulty of this meeting of the Organization of Ethnic Employees?

**Ms Pat O'Neill:** No, I did not, Mrs Marland.

**Mrs Marland:** How do you feel about the fact that a public agency held a meeting for an organization called the Organization of Ethnic Employees in a public building and invited a guest speaker who also sits on a public board paid for by public funds and then, at that meeting, a reporter has her notes stolen or removed, whatever word you want to use, from her at the end of that meeting? How do you personally feel about that?

**Ms Pat O'Neill:** I feel this is a very unfortunate incident. However, I do not yet have all the facts and I don't think anyone else does, because there is an investigation under way. While I'm certainly very upset about the incident occurring, I would not like to comment further until all of the facts are known.

**Mrs Marland:** Where you have a public agency like MTHA with public appointees such as yourself as board members and meetings taking place in a public meeting, do you think outsiders should be banned from that meeting?

1050

**Ms Pat O'Neill:** I think the board currently has a process whereby part of the board meetings are open to the public and certainly to residents. There are obviously some matters which need to be discussed in camera. I'm sure that, as a former member of a local council, you understand there are issues that have to be dealt with privately.

**Mrs Marland:** Do you think the Organization of Ethnic Employees should be able to have a meeting with the public banned from their meeting?

**Ms Pat O'Neill:** I think it's always very appropriate, if you're having a meeting, that you clarify before you start the meeting who is there and you should always be very aware if the media is there.

**Mrs Marland:** But do you think they should be allowed to ban members of the public from that meeting?

**Ms Pat O'Neill:** If a private meeting is called to discuss something where they are seeking a resolution to a problem which is a sensitive one, it often makes a great deal of sense to do that.

**Mrs Marland:** What do you know about the Organization of Ethnic Employees?

**Ms Pat O'Neill:** Nothing.

**Mrs Marland:** Can you define for this committee what an ethnic employee is at MTHA?

**Ms Pat O'Neill:** No, I'm afraid I can't at this point.

**Mrs Marland:** Do you think that's a void in your background at the moment, as you're about to take over as chair?

**Ms Pat O'Neill:** It's certainly one of the things I will need to be briefed on and to be brought up to speed on, yes.

**Mrs Marland:** I'd like to ask you about the selection criteria at MTHA. There is a concern in all public housing authorities in the province about the fact that we have such enormous waiting lists, and I'd like to ask you

about the news that tells us that some refugee families are jumping the queue at MTHA, ahead of landed immigrants and other citizens who may have been on the waiting list for years. How do you feel about that?

**Ms Pat O'Neill:** My understanding is that there is a point system and that those with the most points are the ones who are housed first. That usually means the people with the greatest need. I understand this would certainly cause concern to people who had been waiting a long time and we obviously have to look at the waiting lists and how we can try to accommodate people more quickly.

**Mrs Marland:** Do you think refugee families should be awarded more points than landed immigrants and citizens?

**Ms Pat O'Neill:** I don't think refugee status is one of the criteria for points. Family size, income, health problems are certainly some of the criteria I'm aware of in terms of the point system.

**Mrs Marland:** So would you agree that refugee status shouldn't be part of the point system for eligibility to be on the waiting list?

**Ms Pat O'Neill:** As far as I'm aware, it isn't.

**Mrs Marland:** Okay. Would you be willing to advise this committee, when you know something about the Organization of Ethnic Employees, about who is eligible to qualify as an ethnic employee when you become chair of MTHA?

**Ms Pat O'Neill:** If there's an interest, certainly, Mrs Marland, I'd be glad to talk to you about it.

**Mrs Marland:** Okay. Are you familiar with the SNI initiatives?

**Ms Pat O'Neill:** The safe neighbourhoods? Yes.

**Mrs Marland:** Could you tell us what the current situation is with the incidence of crime and therefore the situation of safety and security in the MTHA developments?

**Ms Pat O'Neill:** It's my understanding that the safe neighbourhoods initiative projects have been completed and that the feeling among those communities where there were initiatives was much more positive at the end of those projects. There was a lot more community involvement; I think people felt better. There was a general sense of better feeling around their neighbourhoods once those projects were completed. I think there's much more that needs to be done in that regard but I'm really impressed by the initiatives that have been taken so far.

**Mrs Marland:** If you haven't done very much homework on MTHA, I guess it's going to be difficult for you to answer a question about what areas you think need to be improved. Had you been sitting as a board member, perhaps you would have seen areas coming up that do need handling right away, but without that background I guess it's difficult for you to answer. But I think it's important, when you're taking over as chair, that the priorities of MTHA in terms of immediate problems and challenges are dealt with right away. I'm wondering if you have any idea what those are.



**Ms Pat O'Neill:** I think I do have a very good idea. I was a resident when the Conservatives initially established Ontario Housing, and therefore I really do have quite an extensive background and knowledge of some of the problems. I have to say that a lot of those problems have not changed over the years. The frustration that tenants feel about the lack of control over their own lives is still very much there.

I think there have been some extremely good initiatives, such as the safe neighbourhoods initiative, such as Planning Together, such as the working group on co-op conversion, that have gone some way towards giving tenants the feeling that they are indeed being listened to at last.

I think there is a lot more that needs to be done around those issues. There are some issues around certain neighbourhoods that the community itself really should have more say in. I think that's what builds good neighbourhoods; that's the way you really do get cooperation in a neighbourhood. I think that's good for both the residents and for the management of the property. Once you have people who are happy where they are living, it certainly decreases vandalism, it certainly creates a more caring community so that people look out not only for themselves but for the property. Those kinds of things really need to be encouraged, and I certainly will be building on some of the initiatives that have happened over the last couple of years in really involving the community in looking after its own neighbourhoods.

**The Vice-Chair:** Last question, Mrs Marland.

**Mrs Marland:** Do you agree with the government's current policy not to have seniors-only buildings?

**Ms Pat O'Neill:** I think it varies. Some senior citizens do indeed like to live where there are families; for others, it's quite traumatic and they don't enjoy it. But I would say again that in a community where there is cooperation, particularly between the front-line staff and the residents, that's the kind of community where a mixed building works very well.

I certainly know of one example in my own neighbourhood where there's a very caring community where children will run errands for seniors, where seniors will give care to a child in an emergency for a young mother. There are some really good examples of where it can work very well. There are other circumstances, and often it depends on the physical structure, where you have a 400-unit building that sort of stretches up for ever and there are thousands of people living there. That can be quite stressful, particularly for seniors who are on higher floors if there's a fire alarm and so on. It really does depend (a) on the physical structure—

**Mrs Marland:** So you don't agree with seniors-only buildings.

**Ms Pat O'Neill:** In some circumstances, yes. There are some seniors who actually prefer that, and I think there should be choices.

**The Vice-Chair:** Ms Carter, you're next.

**Ms Carter:** Welcome, Pat. I'd like to put on the record, before I question you, that lots of people who have come before this committee—and I've been on it

quite some time—do in fact say they are not yet familiar with the organization of which they're about to become a part, and that is normally treated as quite acceptable.

**Mrs Marland:** That's really encouraging, isn't it? They don't know what they're being appointed to.

1100

**Ms Carter:** There are limits to how much you can be expected to know before you undertake the job. This is a job where you will not be dealing with the day-to-day management; you have a general manager to do that. What you need, I understand, are strategic leadership abilities. It seems to me that you have some very relevant experience for a job of that kind, and I wonder if you could tell us about some of that.

**Ms Pat O'Neill:** I have over the years worked with and developed a number of organizations around strategic planning, particularly in my own community. One of the initial ones was the Downsview Western Action Community, a planning group formed in the early 1970s to look at the problems in our community created by a very rapid rate of development. The Downsview Western Action Community was in effect for some 20 years, looking at strategic planning for the community.

Another initiative I headed for a while was Project Rebirth, which was again a revitalization of that planning initiative looking at the community.

I've also worked for community organizations, so I'm really quite familiar with the difference between the roles of the chair and the staff, and I do think the strategic planning, the policy initiatives are the ones where there really is a need for some clarity and some movement at this time. I understand there is a very good general manager who takes care of operations.

**Ms Carter:** Right. I take it you will be encouraging tenant participation in the initiatives. That's the direction we're going in. I just wonder whether to be seen driving a very expensive car and behaving like somebody on a very high salary might be counterproductive in a position like that.

**Ms Pat O'Neill:** I really believe that if one is seriously looking at cost controls and ensuring that the best use is made of public money, then one does make that statement right at the top of the organization.

**Mrs Marland:** And you don't spend \$2,800 on taxis.

**The Vice-Chair:** Mr Marchese is next on the list.

**Ms Carter:** I just have one more question I want to put. The opposition in the House has attacked the government for its support of affordable housing on the grounds that this is not fiscally beneficial, and I see that the federal government is pulling out some of the support that it has been giving to housing under different schemes. I wonder if you could comment on the benefits or otherwise of putting public money into actual housing rather than just giving a shelter allowance to people who are on benefits.

**Mrs Marland:** Oh yes, good question, especially if you read the Toronto Star editorial today.

**The Vice-Chair:** Interruptions are not accepted. Ms O'Neill.



**Ms Pat O'Neill:** I look back to even my childhood in public housing in England, where there was an investment by the government in housing, and how well that served the community in terms of taking care of people's needs. Again, I was a tenant at the time the Conservatives formed the Ontario Housing Corp and I think it was a very good investment of public funds.

If you look at the appreciation that has occurred in that housing stock, it's irreplaceable. I would compare it to my own small condominium town house that probably initially sold for around \$20,000 and at one point recently was as high as \$150,000. You can't replace that, particularly because of land costs within the greater Metropolitan Toronto area. It's so essential to have that stock of housing because there will always be some people with need.

Shelter allowances are fine in some circumstances, I think, particularly where a family breakup occurs so that the family can stay in their own neighbourhood with their own friends. They're undergoing enough stress; they don't need to be moved. A short-term shelter allowance in that circumstance is a good use of money. However, I don't think we can afford to endlessly put money into subsidies and have no return on it.

**The Vice-Chair:** We have four minutes left. If we could make the questions short and the answers short, we'll get through the next round.

**Mr Rosario Marchese (Fort York):** Just a few comments I want to make for the record. You could comment, if you like, at any point where I break.

On the issue of the appointments process, I wanted to say quite clearly that what we have set up as a government is a process that allows both Liberal and Conservative members to identify those NDPers so they could call them in front of this committee to say that everybody we're appointing is an NDPer. We select approximately 10% of all the appointments. The opposition does a good job of identifying, with a magnifying glass, to the best of their abilities, all those appointments that happen to be NDPers.

**Mrs Marland:** A magnifying glass? She worked for a member.

**Mr Marchese:** Where they're not clearly identified as NDPers, or as a person who has worked for a member, in your case, the opposition members have done their best, where they could not clearly identify them but suspected, to say, "Are you an NDP member?" Many of them have done that in the past as a regular pattern. In fact, it's a very disturbing pattern, but that's what they've done for a long, long time, consistently.

I would say this: In our process, we clearly allow them to have this opportunity, as they're doing, to say, "Ah, this is very partisan."

**Mr Cordiano:** Oh, give me a break.

**Mr Marchese:** Mr Cordiano, allow me the courtesy to give you some information I think you should have.

**Mr Cordiano:** I'm sorry. You're absolutely right.

**Mr Marchese:** I was very polite with the comments you made, and you made quite a number of them.

What I'm saying is, you had no process, Mr Cordiano. You and your government had no process, or, for that matter, the Conservative Party. So when we give you this wonderful opportunity to do this, let's be fair, if you can, if you could imagine what fairness means. Anyway, your disturbing pattern was that you had no process. At least we have a process.

**Ms Pat O'Neill:** May I comment on the process?

**Mr Marchese:** Okay. Quickly, though.

**Ms Pat O'Neill:** I think politicians generally do themselves a disservice when they get too partisan in their attacks. I think we all get to know people we work with and we get to know their qualifications, and I think it's really unfortunate that people who are very qualified in many instances to serve on committees do get attacked because we encourage this kind of thing. I would say that certainly there were a number of the Conservative appointments who were people who I thought were excellent appointments, very good people. I think I'm fair enough to be able to make that kind of judgement. I hope people will judge me in the same way.

**Mr Marchese:** I accept that and I agree with that. I should also point out that over 90% of our appointments are of people who have different political affiliations, in some cases very clearly affiliated and some not. But that's over 90% of the cases, I dare say, if not more than 90%. Our position as a government is that we believe people have abilities that go beyond their partisanship in order for them to be able to do the job to which they're appointed.

On the whole issue of salary, I'll leave that for a moment, because I think Mr Cordiano made his own case.

On the other matter, there are several points Ms Marland made with respect to whether it's preferable to have a board member as the chair. It's arguable in many different ways; people can argue that however they want. But I can make a case that says the board chair should be not from within but from without, and in many cases it makes sense.

On the whole issue of whether board members existing there would be upset: Well, they're not civil servants, for God's sake, they're appointments. It's not the same to be able to say, "Well, the ones we appoint: Are they upset if they don't come from internally?" It's a different matter, I suggest.

On the issue of the Organization of Ethnic Employees, it's a long discussion and there isn't much time, but to give you my perspective—

**The Vice-Chair:** I'd like to inform you, Mr Marchese, that you're out of time. You've gone over by half a minute already.

**Mr Marchese:** Can I finish that point, Mr Chair?

**The Vice-Chair:** One point.

**Mr Marchese:** Just that when you get into that chair, if there is such an organization, it doesn't matter to me how they define themselves, except to say that however they define themselves, they may have concerns. It indicates to me there is a problem there. It isn't the



conspiracy of the oppressed, although one could say that these people feel oppressed enough that they need to meet to discuss what their problems are, and I would urge you, if that is the case, to meet with these people to find out what the problems are and establish a process to deal with those problems. Good luck.

**The Vice-Chair:** Thank you, Mr Marchese. Thank you very much for appearing before the committee this morning. The review is now completed.

**Ms Pat O'Neill:** Thank you.

1110

ELEANOR CLITHEROE

Review of intended appointment, selected by the third party: Eleanor Clitheroe, intended appointee as member, Ontario Hydro board of directors.

**The Vice-Chair:** The next we have on our list is Eleanor Clitheroe. Good morning. You're the third-party review, intended appointee to the Ontario Hydro board of directors. I should ask if you have any opening statements or any comments you want to make first. Do you?

**Ms Eleanor Clitheroe:** No, I don't.

**Mrs Marland:** Good morning, Ms Clitheroe. You have a very impressive résumé. How do you feel about your appointment to the Ontario Hydro board of directors?

**Ms Clitheroe:** I'm very pleased to have been appointed and I look forward to serving to the best of my ability.

**Mrs Marland:** Have you had a briefing with the minister about this appointment and about what is involved with the board?

**Ms Clitheroe:** With the minister?

**Mrs Marland:** With the minister or the minister's staff. Have you had a briefing?

**Ms Clitheroe:** No, I have not.

**Mrs Marland:** As a member of the board of directors, how will you deal with the fact that—is this a three-year appointment or a one-year appointment? I'm not sure.

**Ms Clitheroe:** It's the normal term of appointment, a three-year appointment.

**Mrs Marland:** So it's possible that you may go through more than one administration as far as the government is concerned, as there will be an election in three years.

**Mr Sean G. Conway (Renfrew North):** Margaret, that's almost impertinent.

**Mrs Marland:** It's possible that there may be a change of administration. The current administration is very upfront about its opposition to nuclear generation. First of all, how do you personally feel about nuclear generation versus fossil-fuel generation?

**Ms Clitheroe:** My perspective on the issue may be more related to the financial side. In the brief time I've had the opportunity to study hydro, my sense of it is that the nuclear and fossil generating plants have different economic results if one looks at the age of the plants, the asset, the investment, the return, the capacities and so on.

From that perspective, I think one would have to look at the two types of generation and evaluate the efficiencies of the plants versus the capacity needs in the province and so on. In terms of my role on the board, I think that would be to provide some financial advice and comment on that aspect of the operation.

**Mrs Marland:** As there are actually three types of generation of electricity in the province, and, as you mentioned, because of your own particular background and the fact that you're CFO right now of Hydro—you're going to take off your CFO hat and you're now going to be a member of the board, is that correct?

**Ms Clitheroe:** For the purposes today, I understand you're asking me questions with respect to my appointment as director, but I am also the CFO.

**Mrs Marland:** Do you remain as CFO?

**Ms Clitheroe:** I'm also the CFO simultaneously, yes.

**Mrs Marland:** You are. Oh, I see. I didn't realize that. So you stay as CFO and sit on the board.

**Ms Clitheroe:** That's correct.

**Mrs Marland:** That makes a difference, because of any member of the board, your role is significantly dealing with the financial end of the operation.

**Ms Clitheroe:** That's correct.

**Mrs Marland:** And how many members are there on the board?

**Ms Clitheroe:** I believe there are currently 21.

**Mrs Marland:** What's going to happen when there's a close vote and you're sitting there with your financial hat and you're asked to vote on something that is obviously an ideological focus in terms of an administration that is either pro nuclear generation or opposed to nuclear generation? How do you think you will feel if you have to vote on the pros and cons of a type of generation based purely on who forms the administration that's giving that direction to Hydro?

**Ms Clitheroe:** I think the circumstance you're describing would be somewhat unusual. I think the board of directors manages the company in a practical financial and prudent manner, and it would be making those decisions on one form of generation or another on that basis. The administration of the day does not, in its capacity as administration, have a vote on the board in its day-to-day operation. I think that would be an unusual circumstance to find any of the directors, not just the CFO director, to be in. I don't anticipate that to be a problem.

**Mrs Marland:** I'm sure that as the CFO, you've sat in on board meetings, am I right?

**Ms Clitheroe:** I've sat in on one board meeting.

**Mrs Marland:** So you haven't been able to really observe how the board operates, but you're fairly optimistic that the board does operate or can operate prudently and be independent of an ideological bent of any administration as far as the Ontario government is concerned?

**Ms Clitheroe:** The board has fiduciary responsibilities and is required to act in a prudent, responsible manner for the corporation, so I would expect that all of the



directors would operate in that capacity.

**Mrs Marland:** When the board is making the major decisions it has to make right now because of the fact that our fossil fuel plants are in such difficulty, and I'm speaking of one that's 40 years old in my own riding, I think the public generally concedes that with the problems Mr Strong has inherited at Hydro in terms of what Ontario Hydro had become, certainly some of the decisions in the past year have been very brave and, as an outsider, I certainly perceive them as being remedial in terms of the problems that exist.

You get down to the question of: Do you spend more money making coal-fired plants more environmentally acceptable or do you go into using oil more than coal or, ultimately, do we build another nuclear plant in Ontario? There's no choice. To have the amount of capacity without spending millions of dollars retrofitting existing fossil fuel plants and, obviously, as Hydro itself—well, Hydro's a misnomer, isn't it? The amount of electricity generated by water today is the minimal amount compared to the other forms of generation. But when you get to that position, knowing that a nuclear plant takes 10 or 12 years to build in its entirety by the time it's gone through an EA hearing and so forth, how do you see a 22-member board dealing with that kind of decision? Are you really confident that it can be made purely on the bottom-line financial figure about which type of generation has to be planned for in the next 15 or 20 years in terms of our load demand in Ontario?

1120

**Ms Clitheroe:** The financial considerations are obviously one, and a very important, aspect of making any generating decisions. I don't believe it is the only factor. The company currently, under its chairman, has a stated objective of also being a leader in sustainable energy development. That would also be a factor. Environmental issues would also be a factor. I think there'd be a range of issues that the company would appropriately consider, but obviously the financial considerations would also be extremely important.

No, I don't believe it is the only factor one should take into account, but it clearly is one you'd want to be taking into account in the event that the decision would in fact be a costly decision rather than one that is choosing a least-cost or most economic decision on generation.

**The Vice-Chair:** Your time has more than expired, Mrs Marland. Mrs Carter, you're next.

**Ms Carter:** Welcome. I don't envy you your situation, because obviously you are concerned with the financial side and that's where the crunch is. As we all know, Hydro has an enormous debt because of what I would say were mistakes made in the past which cannot now be undone. The question is, how is Hydro going to get out of this debt? I hope a long view will be taken of this so that we'll end up where we want to be, hopefully, when that has been achieved. As I say, it is a very, very difficult problem and I'm sure you're well aware of that.

It seems to me that over the years it's been functioning, Hydro has gone through a series of the same repeating cycle, where it has built generating capacity and has

then encouraged everybody to use power because it was available and because the cost of building that capacity needed to be paid. Having done that, they have then run into the situation where they needed more generating capacity, which has again produced more investment costs which have to be covered. Of course, Darlington is the ultimate case in point, where vast sums of money were put into generating capacity and now we have the debt and nuclear isn't functioning as well as it had been hoped, obviously.

How do we get out of that? Obviously Hydro is cutting a lot of expenses. Mr Strong has been very determined in that respect. But how are you going to avoid falling into that trap again by saying, "We need to get a return on our investment; therefore we're not quite so wholehearted about cutting down consumption as we thought we were"? So the conservation program dwindles, and I understand not so much money is budgeted for conservation and renewables and so on as had been expected.

Conservation is still by far the cheapest way of, in a sense, generating electricity, because obviously kilowatts saved are kilowatts you don't have to generate. It's much cheaper to do it by saving it than by generating it. I'm just wondering if you see some kind of strategy that is going to get Hydro out of its financial fix without committing it to a future where the demand is going to continue to rise and therefore create more debt.

**Ms Clitheroe:** It's obviously early days to give you a very well-articulated and developed vision, but I think the circumstances for the company have changed quite significantly, in large measure as a result of the fundamental changes the whole economy is experiencing. I think what we are seeing is decreased demand and therefore excess capacity probably until the end of the decade, in any event. We're looking at very low real growth, very low inflation. We're looking at restructuring of the heavy power users significantly into different types of configurations. We're looking at an increase in the economy of high-value-added-type businesses, which are lower power users. I think the demand projects we maybe have seen over the last couple of decades we won't be seeing in the next couple of decades.

**Ms Carter:** Could not this reduction in demand be used as a way to discard some of the nuclear capacity, which is actually extremely expensive to maintain, as we've seen?

**Ms Clitheroe:** Depending on where the company finally ends its projections with respect to that demand. There's no question that there will be some excess capacity. The question is how much, and that's partly going to depend on the next round of forecasting and so on. But I think there will have to be a question of how to treat that excess capacity, so that will probably be the more important type of decision, rather than the decision-making around building new capacity.

**Ms Carter:** Do you feel that cost increases should be ruled out? I know there have been significant cost increases in the last few years and the consumers have had enough of that. But is it realistic that Hydro can repair its financial situation while keeping prices as they are?



**Ms Clitheroe:** I think it is realistic. However, I think the company will undergo a few years of very difficult times, as we've seen in the past year, with major cost-cutting exercises. I think that will be continued into future years as the company adjusts to those new circumstances. But it is also important to think about the pricing on the other side and the cost to the end user so that we do have an engine of economic growth.

I think the issues that we're going to try to balance are the financial soundness of the corporation but also ensuring that the company is an engine of economic growth in the economy as well, combined with its mission to be a leader in sustainable environmental development.

I think it's a question of balancing all of those issues and what the right price for electricity will be out over the next decade. It would be too early to say, but to turn the question in the way you are focusing it is certainly, I think, the right strategy to ensure that the costs are reduced so that those costs don't have to be passed on to consumers in the form of increased pricing which exceeds what one might think of as appropriate in this economic environment.

**Ms Carter:** Except that there is a tradeoff between cost and use. Obviously, if you want to discourage use, then to increase the cost is a means of doing that, although of course on the other hand, power is essential in so many ways to the ordinary consumer that there's a big downside in increasing costs to those people.

**The Acting Chair (Mr Rosario Marchese):** Ms Carter, before she answers, I wanted to say that Ms Harrington would like to speak to that.

**Ms Carter:** I will leave it at that point.

**Ms Margaret H. Harrington (Niagara Falls):** I have two questions. First of all, last spring Mr Strong announced very fundamental restructuring of three different parts to the company, and I wanted to get your opinion on that as you will now be in a position to not answer to the board but in fact set direction as well. What is your opinion and your vision for the future of the company? It follows what Ms Carter was asking. Do you think those initiatives that were announced are the way to go to attain that kind of control of rates and efficiencies?

My second question is about the heavy power users. I represent the city of Niagara Falls, and ever since I have been here, three years, I've been bringing up the problem of our abrasives industry, which is very heavily dependent upon the cost of power. It's their raw material, in fact 30% to 40% or more of their operating costs.

Norton, General Abrasives and Washington Mills are the three companies that are still left hanging on by their fingernails. They are operating now only one shift, which would be in the middle of the night kind of thing, and I believe they close down for December, January and February just to try to get by.

What can you see for the future of industries like that? They've been in Niagara Falls since the turn of the century. The question is, do they have a future?

1130

**Ms Clitheroe:** With respect to your first question on

the initiatives, yes, I do think the initiatives that were begun by Mr Strong last year in terms of looking at substantial cost reduction are an extremely important aspect of bringing the company's finances under control. We'll be looking at a similar, obviously not identical, program of continued cost reduction in the company to continue those kinds of initiatives into the new year and into probably the next two or three years. Yes, I do think that is the appropriate way to go.

I think the creation of the three parts, if you will—there are not separate companies, but three parts—allows the business managers to focus both on their business but also on the costs of their business. I think that's a very helpful way of having management behaviour developed in the company that assists in keeping those costs under control. I think that is the appropriate way to go.

**Mr Conway:** I'm pleased to be here, a visitor to this committee. I'm particularly pleased to be here with this particular nominee, which nominee I'm very impressed with and delighted to know that you're going on to the board. I applaud the government for the recommendation.

A very interesting résumé; too bad my friend Margaret is gone. This is very impressive and it's wonderfully eclectic, this interest in everything from teaching ethics to teaching advanced sailing and navigation. I think there's a lot to recommend you just on that alone.

There is no question to me, Ms Clitheroe, about why you're on the board, and it gives me some real comfort; that is, it's obvious that whoever was thinking about your nomination, quite frankly, not just on the board but as the CFO at Hydro, is obviously looking at your background in understanding and working in the capital markets. I wanted to talk a little bit about that.

It is, I think, increasingly clear to a number of people in this wonderful world of Hydro, where I learned a long time ago that religion and theology are much more the drivers of public policy than other apparently more rational factors—my friend from Peterborough would probably think, and be too polite to say, that no one is more captive and more exhibit of that than myself.

But when I look at the beloved Hydro we have come to know in this province, we've got, dressed down, one of the world's great cartels. Boy, you just have to reread that Power Corporation Act to understand what a magnificent, watertight cartel it has been, with this equally wonderful government guarantee in terms of its borrowing.

Over the course of an expanding 20th century, with its up and downs but with an economic growth trend line that, particularly in Ontario and particularly in the post-war period, it has been up, up and away, with a corresponding line in terms of electricity growth and demand. Now we are in the 1990s, and we seem to be in a very different world. It doesn't just seem to be one of those glitches we've had before, where it trends down, like it did in the early 1980s or like it did in part of the 1970s, but we seem to be in the midst of a major restructuring.

One of the reasons we need to talk about demand management is that we are just sitting here, like an awful lot of other utilities, sinking in excess capacity and red



ink, for all kinds of reasons we could all give.

My question to you is, how is the capital world, which you know well, going to react, do you think, to what Hydro will report—if it hasn't already. We're all expecting a report of, what, about \$1.6 billion? Is that the latest number, the loss this year? And for good reasons. Certainly people you know in the financial community will understand why that is. The chairman I think has done a good job of explaining what the ingredients of that are.

But Hydro is now caught, it seems to me, in a culture of being a big cartel, with a high cost structure for Darlington and other reasons and a huge debt load. What do the capital markets seem to be suggesting about the old cartel from where you sit?

**Ms Clitheroe:** Again, it's early days for me to give you a very in-depth answer on that. The capital markets have exhibited interest in Hydro for many years, the process by which Hydro has disclosed, not only with respect to its normal quarterly statements and annual reports and so on, but it has developed quite a close relationship with institutional investors, rating agencies, people who are interested in following the company's prospects. So I think the view of Hydro is not something that is just suddenly developing; it's something that people have been watching over a couple of years.

I think their view of the company has been that it is, has been and will continue to be an important part of the economy in Ontario, that it has a fundamentally sound prospect, that it is, like many other companies, going through a period of difficult financial restructuring, but that the prospects for it coming through that financial restructuring successfully are very good.

**Mr Conway:** It was hard in the past for the capital market not to be interested, because what did you have? You had a monopoly doing business in a growing economy, an essential service, with the government guaranteeing the debt. That was much better than buying Bell Canada stock. When you think about it now, it was a pretty safe bet for most people, would you not agree?

Having said that, I'm listening very carefully to what the chair is saying these days, I'm also listening to what my friend the Premier is saying, and certain things seem to be very clear. The restructuring that is under way anticipates a new future, a future that is coming, and is going to be somewhat different from the past. Part of that new future is going to be the way in which new capital is brought into this corporation.

We are having a debate in the Legislature about privatization and the government is making what I would expect to be the predictable comments, but is it not the case that the capital markets out there and others on the street are fully expecting that the new structures that are being put in place, particularly on the non-nuclear side, are being so organized to allow for a much greater share of equity capital?

**Ms Clitheroe:** With respect to your first question, I think it is correct to say that the markets have thought of Hydro as a good, sound investment. I think that has been internationally as well as domestically the case.

With respect to your second question, the financial restructuring of Hydro will look at a range of issues, including what would be the appropriate capital structure for the corporation, and having looked at what might be the appropriate capital structure for the corporation, how one would obtain those funds.

There is no necessary implication that a reorganization of the capital structure would result in any public, and by public I mean third-party, equity into the corporation. If one was putting on the table all the range of possibilities in terms of changed debt structure, capital structure, equity would clearly be one in the range of a basket one would look at. There are others one would look at, ranging from more specific project financing, revenue, bonds, use or not use of the guarantee in specific circumstances, securitization. So there's a range of instruments and possibilities here in terms of looking at the capital structure of the corporation. If one was looking at all the options on the table, one would look at reformatting the company into a share capital corporation, but not necessarily.

1140

**Mr Conway:** Mackenzie King couldn't have said that better. It's almost unfair of me to ask these questions of you because they will be decided by the board and ultimately by the government, but it seems inevitable—it couldn't be clearer to me—what's going to happen. We're allowed a certain flexibility now because we haven't seen a depression in demand like this—and it may be a good thing—since the early 1930s. We've not seen so many quarters of such dismal demand since—I might be wrong on this, but I doubt that I am. I think you have to go back to the pit of the Depression to find the kind of lack of demand that we've seen in the last, now, three and a half years. And I don't blame that on the current government; that wouldn't be fair. I'm not always fair, but I don't think it would be in that case.

Let me just ask you again, though: When I look at what I think are the two defining characteristics that have made Ontario Hydro the beloved creature we know it to be, I would say it is those two things: It is the wonderful monopoly that all of us have afforded over many years that is contained in the Power Corporation Act—and one just has to re-read that; I was doing it a few years ago and I was stunned by how we've tied up the loose ends over the decades—and the guarantee.

**The Vice-Chair:** If you'd just wrap up, Mr Conway, you've run over your time.

**Mr Conway:** If we took one or both of those away, from your point of view, if a government were to say, "We are no longer going to provide a guarantee for new Hydro borrowing," do you think that would be a significant factor in the new world?

**Ms Clitheroe:** I think it is possible to finance government projects generally, including—if one looked at the provincial infrastructure projects and so on, I think yes, it is possible for the Hydro corporation to issue debt without a guarantee.

The manner in which the market was approached on the reasoning why the guarantee would not be there and



the structure of the debt one would be offering without the guarantee I think would play a very important part in whether the market would actually accept that debt with or without a guarantee, but I do think it is quite possible.

**The Vice-Chair:** Thank you very much for appearing before the committee this morning, Ms Clitheroe. We wish you well.

NHUNG TOMKINS

Review of intended appointment, selected by the government party: Nhung Tomkins, intended appointee as member, Board of Inquiry.

**The Vice-Chair:** Our next individual to appear before the committee this morning is Ms Tomkins, an intended appointee as member of the Board of Inquiry of the police services board, I understand. Would you like to come forward and have a seat at the front? You have the opportunity, if you like, to have an opening statement or a few remarks, or we can go right into questions. It's your choice. The government party is the party that picked you as an individual to interview.

**Ms Nhung Tomkins:** Good morning, all members of the committee. Do you hear me properly?

**The Vice-Chair:** Yes.

**Ms Tomkins:** I do not have any comments, but I am very pleased to be here today. Bonjour, tout le monde du comité. Je suis très heureuse d'être parmi vous aujourd'hui et je serais ravie de répondre à toutes vos questions en français ou en anglais, selon votre choix.

**Mr Marchese:** Obviously, you speak more than one language; I gather you speak about three. Vietnamese is your other language, correct?

**Ms Tomkins:** Yes.

**Mr Marchese:** Do you think that would be an asset for you in this job?

**Ms Tomkins:** I think so. Being able to understand Vietnamese, French and English gives me a benefit not only to understand the language but also to understand the culture.

**Mr Marchese:** Do you think monolingualism can be cured? You don't have to answer that question.

There are a lot of people who confuse the police complaints commission and the Board of Inquiry in terms of the different functions they perform, and I suppose there's a great deal of need to educate the public about these differences. Can you explain or at least describe the nature of those relationships for us?

**Ms Tomkins:** The Board of Inquiry is a civilian tribunal independent from the police and the government—it's a fairly new board that's just being set up—and the police complaints commission's role is to receive complaints from members of the public, monitor its own complaints from the police, and order the hearings.

**Mr Marchese:** What kinds of experiences do you have? I assume that much of what you'll be doing requires a great deal of mediation or at least that kind of role. What experiences do you bring that you think would make you a good mediator in these kinds of Board of Inquiry decisions?

**Ms Tomkins:** Apart from my working experience as executive director, I have experience with my own community where I did participate many times in mediation in family disputes. It gave me experience and gave me an openness. It made me a better, open listener with fairness, to analyse evidence, to arrive at a good decision.

**The Vice-Chair:** Any further questions from the government side? Ms Carter, did you have any questions? No. Mr Frankford? No. Okay, the opposition.

**Mr Conway:** It just looks like an excellent résumé. I am very impressed. Good luck in a tough, thankless job.

**The Vice-Chair:** Mr Bradley, did you have some questions?

**Mr James J. Bradley (St Catharines):** What job is this?

**The Vice-Chair:** Board of Inquiry, Police Services Act.

**Mr Bradley:** Good luck.

**The Vice-Chair:** Well, that was the shortest interview we've had for a long time. We want to thank you for coming and appearing before the committee. We wish you all success.

This committee will now determine whether the committee concurs in intended appointees reviewed this day.

**Mr Marchese:** I move concurrence on all the appointments.

**The Vice-Chair:** Mr Marchese moves concurrence on all the appointments. We can have them all together or individually if the members wish. We will proceed with the motion that we concur.

**Mr Conway:** I missed the first one. I wasn't here and I can't speak to it.

**The Vice-Chair:** The first one was Pat O'Neill.

**Mr Conway:** I can't speak to that. I have no idea. Oh, that's the famous Pat O'Neill, is it?

**Mr Marchese:** Correct, yes.

**Mr Conway:** I'm quite happy to assent to the two for which I was in attendance.

**Mr Marchese:** We'll do them seriatim.

**The Vice-Chair:** We will concur that they're all acceptable. The motion is carried.

I understand that the committee will now adjourn until next Wednesday at 10 am. The subcommittee hopes to meet after question period is over.

The committee adjourned at 1148.











## CONTENTS

Wednesday 1 December 1993

<b>Intended appointments</b> .....	A-329
Pat O'Neill, Metropolitan Toronto Housing Authority .....	A-329
Eleanor Clitheroe, Ontario Hydro .....	A-338
Nhung Tomkins, Board of Inquiry .....	A-342

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Acting Chair / Président suppléant:** Marchese, Rosario (Fort York ND)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)
- \*Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- Cleary, John C. (Cornwall L)
- Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

- Conway, Sean G. (Renfrew North/-Nord L) for Mr Curling
- Cordiano, Joseph (Lawrence L) for Mr Cleary
- Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND) for Mr Waters

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service



A-22

A-22

ISSN 1180-4335

## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 8 December 1993

**Standing committee on  
government agencies**

Report of subcommittee  
Intended appointments

Chair: Margaret Marland  
Clerk: Lynn Mellor

# Journal des débats (Hansard)

Mercredi 8 décembre 1993

**Comité permanent des  
organismes gouvernementaux**

Rapport de sous-comité  
Nominations prévues

Présidente : Margaret Marland  
Greffière : Lynn Mellor





### **Hansard on your computer**

Hansard and other documents of the Legislative Assembly can be on your personal computer within hours after each sitting. Sent as part of the television signal on the Ontario parliamentary channel, they are received by a special decoder and converted into data that your PC can store. Using any DOS-based word processing program, you can retrieve the documents and search, print or save them. By using specific fonts and point sizes, you can replicate the formally printed version. For a brochure describing the service, call 416-325-3942.

### **Index inquiries**

Reference to a cumulative index of previous issues may be obtained by calling the Hansard Reporting Service indexing staff at 416-325-7410 or 325-7411.

### **Subscriptions**

Subscription information may be obtained from: Sessional Subscription Service, Publications Ontario, Management Board Secretariat, 50 Grosvenor Street, Toronto, Ontario, M7A 1N8. Phone 416-326-5310, 326-5311 or toll-free 1-800-668-9938.

### **Le Journal des débats sur votre ordinateur**

Le Journal des débats et d'autres documents de l'Assemblée législative pourront paraître sur l'écran de votre ordinateur personnel en quelques heures seulement après la séance. Ces documents, télédiffusés par la Chaîne parlementaire de l'Ontario, sont captés par un décodeur particulier et convertis en données que votre ordinateur pourra stocker. En vous servant de n'importe quel logiciel de traitement de texte basé sur le système d'exploitation à disque (DOS), vous pourrez récupérer les documents et y faire une recherche de mots, les imprimer ou les sauvegarder. L'utilisation de fontes et points de caractères convenables vous permettra reproduire la version imprimée officielle. Pour obtenir une brochure décrivant le service, téléphoner au 416-325-3942.

### **Renseignements sur l'index**

Il existe un index cumulatif des numéros précédents. Les renseignements qu'il contient sont à votre disposition par téléphone auprès des employés de l'index du Journal des débats au 416-325-7410 ou 325-7411.

### **Abonnements**

Pour les abonnements, veuillez prendre contact avec le Service d'abonnement parlementaire, Publications Ontario, Secrétariat du Conseil de gestion, 50 rue Grosvenor, Toronto (Ontario) M7A 1N8. Par téléphone : 416-326-5310, 326-5311 ou, sans frais : 1-800-668-9938.

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

Wednesday 8 December 1993

The committee met at 1009 in room 228.

## SUBCOMMITTEE REPORT

**The Chair (Mrs Margaret Marland):** I'd like to call this meeting of the standing committee on government agencies to order. The first order of business is to adopt the report of the subcommittee on committee business dated Wednesday, December 1. Do I have a motion to move that subcommittee report?

**Mr Alvin Curling (Scarborough North):** I heard that my colleague Jim Bradley did an excellent job. With that, I so move.

**The Chair:** Any discussion on that motion? All in favour? That's carried.

## INTENDED APPOINTMENTS

**The Chair:** Mr Yeager would just like to make a brief announcement to the committee.

**Mr Lewis Yeager:** I've received some additional information from the Ministry of Health relating to your second appointment of the afternoon to the Ontario Criminal Code Review Board, and I've distributed a revised background report. It has a few changes, mostly of a legal nature, in citations and things of that sort. If you would refer to your revised background report for the second appointment rather than the original one that came around, it would be a little bit more helpful.

## PETER MUNK

Review of intended appointment, selected by the third party: Peter Munk, intended appointee as member, University of Toronto Foundation.

**The Chair:** I would like to welcome to the committee the intended appointee as member of the University of Toronto Foundation, Mr Peter Munk. Welcome, Mr Munk. You do have the option of giving a brief opening comment to the committee if you wish or we will just start in rotation and they can ask you questions.

**Mr Peter Munk:** Please go ahead and let's do it in rotation.

**Mr Allan K. McLean (Simcoe East):** Welcome to the committee. This University Foundation Act, 1992, is something new and it's intriguing to find out just what it's all about. That's really why we wanted you to come forward today, just to give us some review on what this foundation's going to do and how it's going to help our university system. What is the background of it?

**Mr Munk:** It is my understanding that this is a very important piece of legislation. I think it's designed to accelerate or to encourage private funding for Ontario's universities.

I understand that up until now or up until this particular legislation had been proposed or had been passed, there was a serious constraint which prevented people, especially in their estates, from leaving large amounts to these colleges or universities because of the peculiarity in the tax laws. If you are going to pass this piece of legis-

lation, which I understand is being done, that constraint will be removed and the tax laws will be restructured in a way to encourage these private-source fundings.

I also understand from Mr Pritchard, who happens to be here, that most provinces, particularly British Columbia and Manitoba, have these laws. Right now, people who wish to leave bequests to universities in their estates would be penalized if they were to do it for the U of T while they'd be encouraged to do it for out-of-province universities. I think that is the fundamental reason and that's the rationale behind this proposed legislation.

**Mr McLean:** That's interesting. Is every university going to be involved now? What about the colleges?

**Mr Munk:** There's a list which shows the inclusivity of this proposed legislation and I think it only refers to universities within Ontario, but I may be corrected on that.

**Mr McLean:** Have you any idea what they raise in BC or other parts of Canada that have this in place? Is it substantial?

**Mr Munk:** I understand it's millions. It comes primarily from bequests. If you were to be a very committed or loyal graduate of the U of T and you wrote your will, and very often at that point you have no children and you want to leave your estate to an institution you felt a great degree of loyalty to, with the current legislation unaltered, it would be virtually impossible, certainly tax-disadvantageous, for your estate to leave it to your Toronto or Ontario universities, while it would be very encouraging to do so for universities outside of the province.

**Mr McLean:** Will there be staff hired to deal with the office or organize it, and what size do you think that office will be?

**Mr Munk:** I'm sorry, sir, I don't have the answer to that. I think Mr Pritchard would be able to answer that. He happens to be present. It is my understanding that my role and that of my fellow appointees is a position of trustee, to make sure that the funds are properly received in this trust fund and then properly allocated to the appropriate universities, and that is the role which I have been nominated for.

**Mr McLean:** Do you think this will help the government out with regard to its financial problem, when it gets a great amount of help from the foundation?

**Mr Munk:** These institutions have a habit of having insatiable appetites. A few million dollars here and there from private funding will not reduce their appetite in the long term, but I'm not in that business, so I'm afraid I cannot judge.

**Mr McLean:** I hope you enjoy it. I know you will and I know you'll be successful on the board.

**Ms Jenny Carter (Peterborough):** Welcome, Mr Munk. Certainly, as somebody who has quite close ties with Trent University, I'm very pleased that we have



been able to bring in this University Foundation Act and that this is now getting set up. I think it's going to be very beneficial.

I know some donations have in fact been lost to Ontario universities because we didn't have such legislation. How much money do you think there is out there that we'll now be able to access because we have this legislation?

**Mr Munk:** I think the amount is much larger than you and I would assume it is, just on a cursory glance. It amazes me all the time that something like the Princess Margaret Hospital project, which is one of 14 or 15 current major fund-raising events, can attract \$80 million to \$100 million in our economy today from private funding.

There's an enormous amount of money which is out there, and most of the money which you are addressing your concerns to, the really large money, happens to come from people who are dying, who are deceasing. They are leaving in their estates the allocation of very significant funds. That's what I think this legislation is meant to do. It's meant to capture that pool of funds. Once the legislation becomes known and the tax effect becomes clear, I think it becomes significant as time goes on.

**Ms Carter:** We all know, and of course it was just mentioned, that universities are very cash-strapped at the moment and obviously they're looking very hard for ways to acquire extra money. Do you see any problems with accessing money in this way? For example, might the government be encouraged to say, "We don't need to maintain or step up our contributions because there's all this other money coming in"? Do you see any side like that to it?

**Mr Munk:** I wish I could answer you in the affirmative, but as I said earlier, just because you are encouraging private funding, I think it will be a while before the quality of private funding will reach a level that could positively affect or reduce the contribution the universities would be asking for from the government.

As you know, education becomes increasingly important as time goes on. The quality of those universities is of great importance to our country and to our province, and funding I'm afraid is a very critical and vital constraint on them. So I think they're going to go on and on and just ask for more money, because of the important task they fulfil.

**Ms Carter:** I think we all agree that universities must be adequately funded. Could there be any problem with how this money is going to be spent? Supposing a donor has strong ideas as to how he wants his particular donation to be spent, do you think that should be permitted or do you see dangers in that? Do you think the universities should be able to make those decisions, wherever the money comes from?

**Mr Munk:** I am not really qualified to give you the appropriate answer. It is just my personal view that for most people who leave large amounts in their bequest and have specific allocations for those funds, I think the university traditionally, over the years, has always been

able to fit it in in a way that contributes to its overall mission statement. If a bequest were to be made that's totally contrary to the stated objectives of the college, I presume it would deal with that.

**Ms Carter:** It might be project-funding rather than money just for continued operation costs.

**Mr Munk:** That in fact is often the case, absolutely. That is really a matter for the trustees of the university to decide.

1020

**Mr Robert Frankford (Scarborough East):** I notice you're on the board of the Toronto Hospital.

**Mr Munk:** I am, sir.

**Mr Frankford:** I assume they have a foundation as well.

**Mr Munk:** They do, sir, the hospital foundation.

**Mr Frankford:** Are you connected with that or are you separate from that?

**Mr Munk:** I am involved in that as well.

**Mr Frankford:** So in a sense, you already have experience of a foundation.

**Mr Munk:** Yes, we do. We have experience in that, and it's quite similar, I'm sure.

**Mr Frankford:** I think maybe I'm correct in saying that the setting up of the legislation to allow university foundations in a way evens the playing field, not just between other provinces that have it but between the university sector and the hospital sector.

**Mr Munk:** I'm sure that's correct. I never thought about it in those terms, but I'm sure that's a correct statement.

**Mr Frankford:** Do you think the universities might to some extent be competing for the same funds?

**Mr Munk:** I think they do. I think there's enormous competition out there by all kinds of charities for funding. I know personally that I spend half of my time, and I work for a company that keeps me quite busy, just seeing people who wish to talk to me about giving or getting a major corporate or personal donation, and all those causes are excellent.

If you were to be sitting in my chair every day, getting these fantastic presentations from the Governor General's artistic award to the Metro Zoo, to various colleges and universities, to extensions of museums, to hospitals, to specific chairs of endowment, you couldn't say to any one of them that they're either frivolous or that they're wrong or that they would not do a great job. It's just that there's a limit to the funds available. That's why I think the universities are justified in getting this legislation, which would just enhance the flow of these funds into their coffers without a tax penalty.

**Mr Frankford:** In whatever time there is remaining, could you share any experiences as a hospital foundation trustee about the challenges you have there in the allocation of funds?

**Mr Munk:** I'm not a trustee of the foundation, I'm a trustee of the hospital and, as such, I'm committed to correlate with the foundation. I'm not personally a



trustee. The foundation collects the donations, which are now a significant amount of money, many tens of millions of dollars, and its board considers requests from the hospital to augment specific individual donations for certain key projects as long as those funds are designated for activities which are within the overall guidelines of the hospital. Otherwise, they stay in the foundation and just earn interest. So we have a pool of money in the foundation that stands by or is available to fund specific projects required by the hospital.

**Mr Daniel Waters (Muskoka-Georgian Bay):** As I sit here, I wonder, is there anything like this with the federal government? Is there any concern about it wanting to get its sticky fingers in and take its cut?

**Mr Curling:** They're different sticky fingers now.

**Mr Waters:** You can put that one on the record.

Because you've been involved with the hospital foundation and now you're involved with this, I just wonder how that works. Provincially, we've done this, but is there any concern?

**Mr Munk:** I'm afraid I don't have the answer. In the hospital we never ever had any kind of interference or any relation really with the federal government. We deal entirely with the provincial government and we are a provincial corporation.

**Mr Waters:** Hopefully, you never will.

**Mr Munk:** Thank you, sir. You took the words out of my mouth. So I really have no experience at all with federal government activities.

**Mr Waters:** Okay. I was just curious about that aspect of it.

**Mr Munk:** It's a good, logical question. I don't have the answer.

**The Chair:** Are there any more questions from the government members? There's about a minute and a half left.

**Ms Carter:** I could ask something. We did raise the question of whether this relief will be offered to other types of institutions. I understand so far it isn't. Do you think it would be a good idea for art galleries or whatever to be able to share in this kind of benefit?

**Mr Munk:** I personally think the answer is affirmative. I think it could be a helpful way to allow people who make up their last will and testament to have a totally free choice of the fields which they prefer, with the same tax considerations. I'm really not an expert, Madam, but I feel the answer would be yes, it would be helpful.

**Ms Carter:** So people with some money and maybe no descendants could follow up their own particular interests in life.

**Mr Munk:** Their inclinations.

**Ms Carter:** And feel they were leaving their entire estate to whatever it happened to be.

**Mr Munk:** I would feel that, yes, but again, I really never thought about the subject per se.

**Ms Carter:** I don't know what impact that would have on overall tax takings, but that's another issue.

**Mr Munk:** Nor do I.

**Mr Curling:** Welcome, Mr Munk, to the committee. I'm not usually this excited when many people come before this committee, but I'm very excited today about your coming with such qualifications. I think I can't give you all the credit. I've got to give some of the credit to Dr Pritchard too, who I know is pretty good in recruiting.

In your comments, you bring such optimism to this dilemma of funding to universities that it gives me a bit of hope, but it also gives me a bit of concern in this respect.

First, let me just talk about the positive aspect and then I'll ask you to comment on this. I know that if this bill, which the government intends to bring in in order to facilitate more funding to the universities, will assist in funding, that's the good news. I hope the good news carries on to the community colleges, the kissing cousins of education. I hope the government will fund them more, because they always seem to be deprived of getting adequate funding for universities and adequate funding for the community colleges themselves.

A concern was expressed, though, by the Canadian Federation of Students. They say they see this as an abdication by the government to fund universities. I don't see it totally like that; I see it partially as an abdication itself. Could you just comment again? You're saying that you're extremely confident that sufficient funds will be created from this kind of legislation itself to fund a university. Do you think that will solve the problem of funding for universities?

**Mr Munk:** I don't think I hinted, let alone said, that I think these kinds of private funds, encouraged by this tax legislation, could in any way eliminate or replace or indeed substantially reduce government funding. I think this is not the same quantity of funding we're talking about. This is an additional component that will encourage the private sector's inflow of funds, but it could not be considered adequate to replace the government's funding.

**Mr Curling:** I'm glad you say that, because the fact is that you and the members of that board will be serving as advisers to the minister. By then, I presume they will put their Bill 68 through. You will be advising the minister as to the direction itself. I think it should be stated very emphatically to the minister that this is not the entire adequacy of funds that will do all the funding for the universities.

The way I see it, and I'm sure you have seen it too—as a matter of fact there's a release today saying that for those who have not finished grade 12, it's dismal. Forget the fact that you may get a job. It's very dismal. It will be challenging to get a job even for those with university. Therefore it is so important that access to university is not restricted by lack of funds for individuals going in, because the competitiveness in the years ahead will be that they must have a graduate or post-graduate degree.

Maybe I'm answering the question. Let me put it as a question. Could you assure me that you will tell the minister that, although it may not be adequate, we must continue to advance so that access to education will not



be impeded by lack of funds for those who want those university degrees?

**Mr Munk:** I absolutely concur with that, sir.  
1030

**Mr Curling:** I just want to thank you very much. I'm sure other universities will be attracted to individuals like yourself in order to get funds for all of the universities. I'm biased, because Scarborough college, which is part of the University of Toronto, serves my area. I wish you well in your endeavours.

**Mr Munk:** Thank you, Mr Curling.

**The Chair:** We thank you, Mr Munk, for appearing before the committee this morning. Obviously all three caucuses are very happy about your willingness to serve in another capacity, helping the people of this province. Thank you very much for being here this morning.

**Mr Munk:** Thank you very much for having me here.  
RANGASAMUDRAM S. SWAMINATH

Review of intended appointment, selected by the official opposition party: Rangasamudram S. Swaminath, intended appointee as member, Ontario Criminal Code Review Board.

**The Chair:** Our next intended appointee as a member of the Ontario Criminal Code Review Board this morning is Mr Rangasamudram Swaminath. I know I've just done a terrible job pronouncing your name, but I welcome you warmly to the committee this morning. Perhaps if you would like to come forward, you could tell us how to correctly pronounce your name. Feel free, if you wish, to address the committee for a few moments or we can just start with the rotation of questions. What would you prefer?

**Dr Rangasamudram Swaminath:** I think you did good in struggling to pronounce my name. Swaminath is my last name; Rangasamudram is my first name.

**The Chair:** I didn't do too badly actually. Do you wish to address the committee or would you like them just to start asking questions?

**Dr Swaminath:** I'm quite comfortable with questions being asked of me.

**Mr Curling:** Welcome, Mr Swaminath, to this committee. Lately, actually I would say over the last five years, crime has gone up in certain areas and also gone down in certain areas. There's a great concern about the protection of the innocent or the protection of people who want to feel safe in their communities.

This board itself that you will serve on is an extremely important board. I think in the near future or in the immediate future, a lot of questions will be asked about paroling and about how we review the whole system itself. Do you have any views on any new direction or any suggestions that you feel you'd like to bring to this board?

**Dr Swaminath:** My contribution would be in the area of providing the board with the benefit of my medical expertise and particularly my training and experience of working with mentally ill offenders. So in terms of that, I can help the Ontario Criminal Code Review Board in that area.

As a member of the board, I have to look at the evidence that is presented to the board as such, and in particular the evidence from the expert witnesses who appear before the board, and weigh that evidence and see how that can be applied in terms of the mandate the board has, which is to look at the mental condition of the accused, the need to protect the public from dangerous people, the needs of the accused and also, in the interests of the community, reintegration for the accused.

I have to weigh those and see how that can be applied in the context of the least onerous, the least restrictive alternatives that we have. So we are in this balancing act, and as a member of the board, I can only go by the evidence that was presented before the board.

**Mr Curling:** It depends on what statistics we read. There are times when we feel that in Canada we have more people incarcerated or in jail than any other society in the world.

**Mr Frankford:** The US is higher.

**Mr Curling:** Is that so?

**Mr Frankford:** Way higher.

**Mr Curling:** I'm hearing from Dr Frankford that we are very high in that.

There are concerns about, I forget what they call it, where they put these attachments on people but they stay within a certain area, monitoring them by these electronic means. Do you see that we're doing more of that? I don't know if it's even done here. I only see this on TV, where people are monitored that way.

People are crying for the need to protect them from dangerous persons. The perception sometimes in people's minds is that if someone is charged and sentenced for some crime, they feel they are dangerous for life, whereas sometimes economically it's much cheaper for them to serve their sentence within their own home or within their own environment. Do you see any encouragement for that kind of recommendation coming forward for such legislation?

**Dr Swaminath:** That is a matter that should be looked at by the parole board and how the parole decisions are made in respect of an offender who is serving a sentence for the crime that he or she has committed.

As a member of the Ontario Criminal Code Review Board, my area would be in looking at the mentally ill offenders who appear before the review board and who have either been found not criminally responsible on account of a mental disorder or who have been deemed to be unfit to stand trial on a specific criminal charge. I'm not sure whether the parole test can be applied by the Ontario Criminal Code Review Board, because the Ontario Criminal Code Review Board has a specific mandate.

**Mr Curling:** Just following up on the same protection from dangerous people, there have been concerns also about releasing the names of people who have been convicted and have been released on parole. I presume this board will be dealing with some of those things, the decision itself as to whether or not one should release names of dangerous persons. That debate has been going on. I don't want to drag you into something that is so



complex and so emotional itself but, just by chance, have you had a chance to have any views on that?

**Dr Swaminath:** The patients in hospitals who are detained under the Criminal Code Review Board disposition order are protected under the confidentiality provisions that exist. Any information relating to their release will have to be dealt with within the guidelines that we have on releasing confidential information. The police have knowledge of the persons who are detained under the provisions of the Criminal Code, and one of the things that is done is to work in close cooperation with the police. But that rests with the hospital where the accused is detained. I'm not sure whether Criminal Code Review Board itself is mandated to do that.

**Mr Curling:** I doubt it rests with the hospital though. It's the review board that would make the decision as to whether that person would be discharged from the hospital or whether that person can be discharged from the institution and allowed out in the community.

Some people feel they should be told the names of people who have been active in violent crimes and who will live in their community. I'm not saying it's an easy answer at all, but I just wondered if you had some comment on that. I have no other comment or questions to you on the matter. We could go on all day on this. Thank you very much.

1040

**Mr McLean:** Welcome to the committee. I look at your résumé and it's pretty impressive. The board hearings are conducted by a three-member panel. It says the chair must be a judge, often retired, one member must be a psychiatrist and the third member a layperson. Have you ever been aware or watched the board operate? Have you been involved at all?

**Dr Swaminath:** I have not been involved as a member of the board, but I have sat on the other side and presented evidence for the board on an accused who has appeared before it.

**Mr McLean:** In your position as assistant professor of psychiatry at the University of Western Ontario, would you sit in on some of those hearings?

**Dr Swaminath:** I would if I'm appointed to the Ontario Criminal Code Review Board as the psychiatric member.

**Mr McLean:** Would this appointment involve travelling in different parts of the province, or is it mainly the St Thomas psychiatric facility you'd be dealing with?

**Dr Swaminath:** It's likely to involve a certain amount of travelling outside of where I am.

**Mr McLean:** Do you feel that the system is providing adequate safeguards for the public?

**Dr Swaminath:** The Criminal Code Review Board has developed certain standards and one of the standards is to look at the protection of the public from dangerous persons. There is a representative from the Ministry of the Attorney General who specifically looks into that kind of issue when an accused is appearing before that review board. So there is that safeguard there for public protection.

**Mr McLean:** But these people do appear to be getting out into society, and maybe they should be and maybe they shouldn't. Do you feel there are some getting through the system who shouldn't be?

**Dr Swaminath:** I'm not sure whether I can say that. All cases, in my opinion, are reviewed very carefully and a lot of weight is placed in terms of how the accused is doing now, what is his state of mind at the present time, what are the risk factors that have to be taken into account and what are the needs of the person in terms of getting back into the society. So it's a balancing act that we have to do. Of course, it is not foolproof and it is not risk-proof. There is a certain amount of risk involved, as there would be in any situation similar to this.

**Mr McLean:** I want to turn it around, and maybe it's not in your duty, and talk about a victims' bill of rights or some rights for victims who have been hurt due to the fact that some have been let out. It doesn't matter whether they've been let out or not, I'd like your view with regard to a victims' bill of rights. Some of these victims I see and I read about are really suffering and there don't seem to be any rights for those people. Do you think there should be more?

**Dr Swaminath:** I think there is an increased awareness I see, and this is aside from the Criminal Code Review Board itself, in terms of the impact on victims in any violent offence that is perpetrated on them. I'm aware that the Ministry of the Attorney General is trying to provide some victim protection and support for victims in terms of helping them through that ordeal. I'm not sure whether it falls within the jurisdiction of the Ontario Criminal Code Review Board.

**Mr McLean:** Thank you. I wish you all the best.

**Mr Frankford:** Good morning, Dr Swaminath. Mr McLean asked part of the question I'd been thinking of asking. You have been at the board as a psychiatrist, so you've been able to observe it from another perspective. Could you perhaps elaborate on how you observe it functioning? Do you have any thoughts on how you would like to change the way it operates maybe?

**Dr Swaminath:** As I've indicated to the honourable member, I have sat on the other side, which is basically representing the hospital where the accused is subjected to the Criminal Code Review Board disposition order. As a psychiatrist working in that hospital, I have under my direct care a certain amount of patients. Whenever their cases come up for a hearing by the review board, I appear before it to give evidence on the psychiatric condition of the accused, so that the board not only has the benefit of a report from the hospital but also has the benefit of actually examining the witness and asking questions relating to the accused, his state of mind, the risks and so on. Mostly I have done a lot of those during my years in St Thomas, but I have never had an opportunity to sit on the review board as a member, making decisions on the accused.

**Mr Frankford:** As the hospital psychiatrist, the expert witness, you would bring the patient's file and presumably you would be able to help the board with your impression of people's overall behaviour in an institution and any factors that you thought were either



warnings that they shouldn't be discharged or, conversely, that you felt comfortable that they should be.

**Dr Swaminath:** Those are the very issues that we get into during the hearing process.

**Mr Frankford:** To put it very simply, what the board is trying to assess is whether people are mad or bad. I understand that the old Lieutenant Governor's board of review didn't publish statistics about the cases it dealt with. Do you think that would be something which would be helpful, for instance, to society and members of the Legislature, to get a better understanding of what the types of problems are that we are confronted with?

**Dr Swaminath:** Sure. Statistics would be helpful to the public, to know what kinds of persons are held within the system, how the system is applied to them in terms of making decisions about their release and so on.

**Mr Frankford:** Do you have any idea about the total number of individuals being dealt with in the province?

**Dr Swaminath:** I'm not quite up to date with how many detainees there are within the system right now, but my guess would be about 450 to 500 approximately.

**Mr George Mammoliti (Yorkview):** Welcome to the committee, sir. Have you had any experience with drug addicts?

**Dr Swaminath:** Yes, I have.

**Mr Mammoliti:** What type of experience have you had?

**Dr Swaminath:** My experience goes back to my days in training in psychiatry. Part of that involves working in addiction rehabilitation programs.

**Mr Mammoliti:** I feel comfortable in asking you this question then: What improvements can the government make in terms of rehabilitation centres in Ontario, and how would that help you as a board member?

**Dr Swaminath:** It is important to see what problems are present for the accused himself, whether drugs have played a major role in the offending behaviour. If that is the reason, then what is it that the accused pleads in terms of rehabilitation from that point of view? There are programs within the province, there are programs in hospitals which are both residential and outpatient programs wherein the accused can have the benefit of trying to get an insight into his drug addiction problem.

**Mr Mammoliti:** Do you think drug addicts who commit a crime would be better served in a rehabilitation centre outside the correctional facility or do you think we should continue placing some of these people in our correctional facilities?

**Dr Swaminath:** I think the cases that are dealt with by the Ontario Criminal Code Review Board are those that are found unfit to stand trial or not criminally responsible by reason of mental disorder. So if drug addiction is a problem, we'll have to look at that problem in that context. I can offer my own opinion as to what the corrections—

**Mr Mammoliti:** That's what I'm looking for.

**Dr Swaminath:** But I'm not sure whether that would be my mandate, sitting with the Ontario Criminal Code Review Board.

**Mr Mammoliti:** What the hell.

1050

**Dr Swaminath:** I think it is a problem. It is a problem that is escalating. We know that alcohol and drugs do play a part in offending behaviours. We know they're potentially disintegrating agents which can have a profound effect on human behaviour to an extent that they can unleash lethal instincts resulting in a tragedy that we do not want to see. It is a big problem. It is a potential problem. I think there has to be an awareness of that and we have to see how they can be dealt with in terms of getting them the rehabilitation, and also keeping in mind the resources that we have to work with as well.

**The Chair:** There are three minutes left.

**Ms Margaret H. Harrington (Niagara Falls):** We'll be brief. Good morning and welcome. There's a very common concern across the country about the safety of our communities, certainly in my area of Niagara, and what people call "the system." They're worried about whether the system provides adequate safeguards. One of the questions we have been discussing in the justice committee under a victims' rights idea is whether or not victims, say of sexual offenders, should be given notification of the date of release of the perpetrator, and issues around that. What would be your opinion of that?

**Dr Swaminath:** Let's say it's a very sensitive issue, it's a very delicate issue, especially when it is dealt with in the context of a Criminal Code review. The person being detained in a hospital, recovering from a mental illness and being treated for that, how should that be looked at in terms of the impact on the victim in cases where there is a potential release of that individual from a psychiatric institution? There are provisions in the code which now require the hearings to be held in public. My guess would be that the victims would have access—

**Ms Harrington:** They could have access or would have access?

**Dr Swaminath:** They would have access. But they may have to apply before the review board and seek its permission or at least notify it that they will be attending that hearing.

**Ms Harrington:** If you do have time, you might want to elaborate a little further on what you feel about victims' rights and whether things should be changed in our system.

**Dr Swaminath:** It's a balancing act that we get into. Victims, in my personal opinion, quite aside from the Criminal Code Review Board, have an equal say in terms of determining their own needs, particularly when a violent crime is committed against them. There is that anxiety the victims go through and it is an anxiety-provoking thing for them when they see that there is a person who is facing imminent release. I think we have to balance again the needs of the accused and how we are going to get him back into society, and at the same time within the context of the victim being part of that society.

**The Chair:** There are about 30 seconds left, Mr Waters.

**Mr Waters:** I'll be very fast because I'm expected downstairs. Mr McLean and I share a certain facility

called Oak Ridge, which is actually in his riding but both of us represent that area.

**Mr McLean:** It's mostly your constituents.

**Mr Waters:** It's mainly my constituents who work there, not who are held there.

One of the things that I've heard time and again is the guidelines and the rights of those people who are being held. Some people feel that their rights are excessive. In fact there has been a story where one inmate actually had the plans to the facility under freedom of information. Do you feel the people who are being held have too many rights, that there's too much freedom of information, or do you feel that's adequate and shouldn't be changed?

**Dr Swaminath:** This goes in with the Charter of Rights and Freedoms that we have in terms of the rights of the accused or anyone who is detained in an institution. It's a difficult question for me to answer in terms of how far one can go in handing down their rights as opposed to what is in the best interests of them and also in the best interests of the institution. It's a very difficult question for me to answer. I think the charter does say very clearly that everybody has rights, including those who are detained in hospitals.

**Mr Waters:** I have one more question. The question was proposed by legislative research. It says, "Would the witness discuss how a psychiatrist would approach determining whether an accused in a sexual offence is a dangerous offender or a habitual high-risk offender?" I'm curious how you would do that, because there's been so much talk about that particular type of offence.

**Dr Swaminath:** Again, it hinges on what is known about the accused, what was the accused's modus operandi in the past, what are the behaviours that need to be particularly targeted. So in that sense, the more knowledge you have about the accused, the better you are in terms of understanding how that individual would function in a given situation. I guess this applies to all offenders, including sex offenders.

**The Chair:** I would like to thank you, Dr Swaminath, for your appearance before the committee this morning, and a second apology, because I didn't address you as doctor at the beginning, simply because I hadn't done my homework. I didn't realize that you were

a psychiatrist. Thank you again, doctor, for being here.

**Dr Swaminath:** Thank you very much for the opportunity to appear before the committee.

**The Chair:** Members of the committee, we did have a third appointment this morning, Mr Bruce Stanton, but unfortunately he was not able to attend at the last minute. Mr Waters, I think you wanted to speak about Mr Stanton's appearance, because he was one of your selections.

**Mr Waters:** Yes. Mr Stanton and I have been long-time acquaintances. I would move that we withdraw Mr Stanton's appearance.

**The Chair:** It would be automatically expiring anyway, wouldn't it?

**Mr Waters:** Yes.

**The Chair:** Mr Waters has moved that the request for Mr Stanton's appearance before the committee be withdrawn. All in favour of that?

**Clerk of the Committee (Ms Lynn Mellor):** It doesn't need a motion. It's his option.

**Mr Rosario Marchese (Fort York):** Would you like me to move concurrence on the two appointees?

**The Chair:** Yes. That would be great.

Mr Marchese moves the appointment of Peter Munk as a member of the University of Toronto Foundation and also the appointment of Dr Swaminath as a member of the Ontario Criminal Code Review Board. All in favour of that motion? Opposed, if any? That motion is unanimous.

Members of the committee, we'll see you next week if the House is sitting. There are four appointments scheduled for next Wednesday. If the House isn't sitting, I'd like to wish you season's greetings and see you in the new year.

**Mr Marchese:** And to you likewise.

**Mr Curling:** I want to thank you, Madam Chair, for the excellent job you've done through the session and hope you continue to get the cooperation of all members, especially the government side.

**The Chair:** Thank you. The committee is adjourned. The committee adjourned at 1101.









## CONTENTS

Wednesday 8 December 1993

<b>Intended appointments</b> . . . . .	A-343
Peter Munk, University of Toronto Foundation . . . . .	A-343
Dr Rangasamudram S. Swaminath, Ontario Criminal Code Review Board . . . . .	A-346

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

- \***Chair / Présidente:** Marland, Margaret (Mississauga South/-Sud PC)
- \***Vice-Chair / Vice-Président:** McLean, Allan K. (Simcoe East/-Est PC)  
Bradley, James J. (St Catharines L)
- \*Carter, Jenny (Peterborough ND)
- \*Cleary, John C. (Cornwall L)
- \*Curling, Alvin (Scarborough North/-Nord L)
- \*Frankford, Robert (Scarborough East/-Est ND)
- \*Harrington, Margaret H. (Niagara Falls ND)
- \*Mammoliti, George (Yorkview ND)
- \*Marchese, Rosario (Fort York ND)
- \*Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND)  
Witmer, Elizabeth (Waterloo North/-Nord PC)

\**In attendance / présents*

**Clerk / Greffière:** Mellor, Lynn

**Staff / Personnel:** Yeager, Lewis, research officer, Legislative Research Service







OCT 5 1994





3 1761 11467052 4